
Cabinet Member (Policing and Equalities)

2 October 2014

Council

7 October 2014

Name of Cabinet Member:

Cabinet Member (Policing and Equalities), Councillor Philip Townshend

Director Approving Submission of the report:

Executive Director, Resources

Ward(s) affected:

N/A

Title:

Change to the Constitution: Appointment to Appeals Committee

Is this a key decision?

No

Executive Summary:

The Appeals Committee has responsibility for the determination of appeals against any decision made by or on behalf of the Council where there is a statutory right of appeal. Some appeals, such as school admission appeals, are excluded from its terms of reference. In practice most, if not all, appeals heard are by employees although occasionally there is an appeal in connection with social services home care charges. Membership of the Committee is drawn on an ad hoc basis from a pool of members who have received relevant training.

At present, the Appeals Committee Procedure Rules at part 3J of the Constitution do not allow Cabinet Members to sit on the Committee. This report recommends that the Constitution should be amended to permit Cabinet Members to sit on the Committee provided that they have received appropriate training. The ability to do this would be restricted to appeals by employees only and there is no proposal to extend membership to non-employee appeal hearings such as care charge appeals. It is also proposed that the operation of the new arrangements should be reviewed in the next municipal year to ensure that they are delivering the anticipated improvements.

Recommendations:

Cabinet Member

- (1) To recommend to Council that paragraph 1 of Part 3J of the Constitution is amended to remove the prohibition on Cabinet Members sitting on the Appeals Committee in

connection with appeals by employees only, subject to their receiving appropriate training beforehand; and.

- (2) To review the operation of the new arrangements in the next municipal year to ensure that they are delivering the anticipated improvements.

Council

Approve the amendment of paragraph 1 of Part 3J of the Constitution to remove the prohibition on Cabinet sitting on the Appeals Committee in connection with appeals by employees only, subject to their receiving appropriate training beforehand.

List of Appendices included:

Appendix 1: Part 3J of the Constitution (Appeals Committee Procedure Rules)

Other useful background papers:

None

Has it or will it be considered by Scrutiny?

No

Has it, or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes, 7 October 2014

Report title: Change to the Constitution: Appointment to Appeals Committee

1. Context

- 1.1 The Appeals Committee has responsibility for the determination of appeals against any decision made by or on behalf of the Council where there is a statutory right of appeal. Some appeals, such as school admission appeals, are excluded from its terms of reference. In practice, most of the business of the Committee relates to employee appeals although occasionally there is an appeal in connection with social services home care charges. Membership of the Committee is drawn on an ad hoc basis from a pool of members who have received relevant training. A total of 24 councillors have been trained and are therefore eligible to hear appeals.
- 1.2 At present, the Appeals Committee Procedure Rules at part 3J of the Constitution do not allow Cabinet Members to sit on the Committee. While certain aspects of employment matters may not be the responsibility of the Cabinet, Cabinet Members may lawfully participate on a committee determining an employee appeal.
- 1.3 The limited pool of councillors qualified and available to hear appeals means that it is sometimes difficult to find enough councillors for a hearing. This can lead to delays in hearing appeals. It is suggested that allowing Cabinet Members to participate in appeals (subject to carrying out the relevant training) will increase the number of potential committee members and so allow hearings to be arranged more quickly. It is increasing becoming difficult to arrange appeal hearing dates due to the lack of availability of panel members. In order to plan for forthcoming appeals with certainty and efficiency this matter there is an urgency for this matter to be determined as quickly as possible. Therefore the Constitutional Advisory Panel is not considering this report in the first instance.

2. Options considered and recommended proposal

- 2.1 There are two options to consider. The first is to do nothing. This is not recommended as the current unsatisfactory situation with regard to finding sufficient councillors to form a Committee would continue. It is not efficient and unfair to the employee(s) concerned to wait any longer than is necessary.
- 2.2 The recommended option is to amend paragraph 1 of Part 3J of the Constitution to remove the prohibition on Cabinet Members sitting on the Appeals Committee. The removal of the prohibition is proposed in connection with appeals by employees only. The current position with regard to non-employee appeals, such as social services home care charges appeals would remain unchanged. Part 3J (Appeals Committee Procedure Rules) is attached as an Appendix to this report and the suggested amendment is shown.
- 2.3 It is recommended that if the proposals are agreed, they should be reviewed in the next municipal year to ensure that the new arrangements are delivering the anticipated improvements.

3. Results of consultation undertaken

- 3.1 There has been no consultation on this proposal.

4. Timetable for implementing this decision

4.1 If approved, the change to the Constitution will be implemented immediately.

5. Comments from Executive Director, Resources

5.1 Financial implications

There are no financial implications arising from this report.

5.2 Legal implications

While certain matters relating to staff and terms and conditions of employment are not by law to be the responsibility of the Cabinet, there is no legal restriction on Cabinet Members being member of Appeals Committee.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The Constitution sets out the governance arrangements of the Council and it is important for the good governance of the Council that these are fit for purpose and are flexible enough to respond to changing circumstances.

6.2 How is risk being managed?

None

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

None

6.5 Implications for (or impact on) the environment

None.

6.6 Implications for partner organisations?

None.

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Member: Councillor Philip Townshend	Cabinet Member		23/09/2014	24/09/2014

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PART 3J: APPEALS COMMITTEE PROCEDURE RULES

1. An Appeals Committee will consist of Councillors ~~who are not Cabinet Members and~~ who have been trained in hearing appeals. Members who are Cabinet members may sit on an Appeals Committee which has been convened to hear appeals by employees but not on Appeals Committees dealing with other types of appeal.
2. The membership of each Appeals Committee and any Statutory Review Board will comprise the appropriate number of members as selected by the Executive Director, Resources on an ad hoc basis from a Panel of Councillors who have had training in determining appeals and any statutory or other requirements for review boards.
3. The Chair of an Appeals Committee or a Statutory Review Board will be appointed by the Committee or Review Board at the start of each meeting.
4. Each Appeals Committee will comprise three Councillors (subject to any statutory requirements to the contrary) and all three Councillors will be required to be present to consider the appeal.
5. No Councillor who has had any previous knowledge or dealings with the matter which is the subject of an appeal will be eligible to serve on an Appeals Committee that considers that matter. In relation to an Appeals Committee dealing with an employment dispute, no Councillor who is a trade union official, employee or other office holder shall be permitted to be a Member of the Committee.
6. Appeals Committees are subject to the Access to Information Procedure Rules set out in Part 3B.
7. Appeals Committees are the subject of the proportionality requirements set out in the Local Government and Housing Act 1989 and the Executive Director, Resources in selecting membership of any Appeal Committee or statutory review board will ensure that the membership properly reflects the political make-up of the Council.
8. Decisions of the Appeals Committees are not the subject of call-in.
9. The Executive Director, Resources or his or her representative will attend all meetings to advise and record proceedings.
10. Appeals Committees dealing with employment appeals or trade union disputes will have in attendance the relevant Senior Human Resources Manager or his or her nominee to advise as appropriate.

