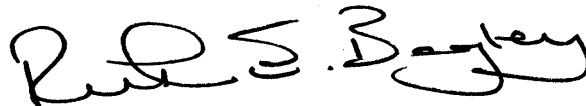


Date of issue: 8<sup>th</sup> February, 2011

<b>MEETING</b>	<b>EMPLOYMENT APPEALS SUB-COMMITTEE</b> (Councillors Davis, Dodds and Maclsaac)
<b>DATE AND TIME:</b>	MONDAY, 21ST FEBRUARY, 2011 AT 10.00 AM
<b>VENUE:</b>	COMMITTEE ROOM 4, TOWN HALL, BATH ROAD, SLOUGH
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	SHABANA KAUSER  01753 875013

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**RUTH BAGLEY**  
Chief Executive

AGENDA

PART 1

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	<b>CONSTITUTIONAL MATTERS</b>		
1.	Election of Chair		

**AGENDA**  
**ITEM**

**REPORT TITLE**

**PAGE**

**WARD**

- |    |   |        |  |
|----|---|--------|--|
| 2. | Declarations of Interest<br><br>(Members are reminded of their duty to declare personal and personal prejudicial interests in matters coming before this meeting as set out in the Local Code of Conduct) |        |  |
| 3. | Minutes of the Employment Appeals Sub Committee meeting held on 11 November, 2010   | 1 - 2  |  |
| 4. | Employment Appeals Sub Committee Procedure  | 3 - 10 |  |
| 5. | Exclusion of the Press and Public   |        |  |

**PART II**

- |    |   |         |  |
|----|---|---------|--|
| 6. | Appeal Against Procedure Applied to Job Evaluation Review |         |  |
|    | (a) Appellant's Case                                      | 11 - 34 |  |
|    | (b) Management Case                                       | 35 - 90 |  |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Special facilities may be made available for disabled or non-English speaking persons. Please contact the Democratic Services Officer shown above for further details.

**Employment Appeals Sub-Committee – Meeting held on Thursday, 11th November, 2010.**

**Present:-** Councillors Bains, Dodds and Maclsaac.

**PART 1**

**43. Election of Chair**

**Resolved** – That Councillor Dodds be elected Chair of the Sub-Committee.

(Councillor Dodds in the Chair)

**44. Declarations of Interest**

None.

**45. Employment Appeals Sub Committee Procedure**

The procedure was noted.

**46. Exclusion of the Press and Public**

**Resolved** - That the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972.

**Part II**

(The following is a summary of the matter considered in Part II of the meeting).

**47. Appeal Against Procedure Applied to Job Evaluation Review**

The Sub-Committee had convened to consider an appeal from an employee against procedure applied to the Job Evaluation Review.

The Sub-Committee was advised by the Democratic Services Officer (DSO) that an email from the Union Representative, advising the Appellant, was sent to Democratic Services on 27 October 2010 at 6.30pm, formally requesting an adjournment of the appeal hearing. It was outlined that the reason for requesting an adjournment related to Unison's concerns regarding an element of the process and how it was being applied. Members were informed that the DSO had sent a response to the email outlining that as the meeting had been formally convened, it was for the Members of the Sub-Committee to decide whether to grant an adjournment.

## **Employment Appeals Sub-Committee - 11.11.10**

The Sub-Committee carefully considered the information provided by the DSO and legal representative and considered, given that a request for adjournment of the hearing had been requested and in the absence of both the appellant and union representative, it was inappropriate to proceed with the appeal. The Sub-Committee therefore adjourned the appeal hearing .

**Resolved** – That the meeting be adjourned.

Chair

(Note: The Meeting opened at 9.30 am and closed at 10.00 am)

APPENDIX TO JOB EVALUATION REVIEW PROCESS

**APPEAL AGAINST PROCEDURAL ARRANGEMENTS ADOPTED AT JOB EVALUATION REVIEW PANEL**

The Employment and Appeals Committee determined on 31<sup>st</sup> March 2010 that employees be granted a right of appeal to the Employment Appeals Sub-Committee against the procedure and the administration of the JE Review process.

There is no right of appeal against grading outcomes as these have been assessed by two HAY trained job evaluation analysts serving on any particular Review Panel.

Only those staff who had a JE Review undertaken can access this Appeal process, however you will not be eligible to appeal if your original JE Review resulted in an increase in the Level previously awarded.

You may only appeal against the procedure and the administration of the JE Review process in relation to matters such as:

- Not being allowed to have a trade union representative or work colleague in attendance to support you
- Not being allowed to state your case e.g. in person
- Not being offered an alternative date when the original date for the review meeting was inconvenient to the employee.
- Not having a properly constituted Panel to hear your review. Each JE Review Panel should have consisted of a senior manager (Director, Assistant Director, or Head of Service) and 2 HAY trained JE analysts from a pool of trade union representatives, managers and HR staff. (This pool may also comprise ex employees who have been HAY trained and undertook evaluations on behalf of the Council whilst they were employees.)
- Not being allowed to submit relevant paperwork relating to the JE Review (Note: the due date for submissions was 14 January 2010)

The Employment Appeals Sub-Committee will hear an appeal in accordance with the attached arrangements. Where the Sub-Committee uphold an appeal and agree that the procedural arrangements for the original JE Review hearing were flawed, the remedy will be to request that a second internal JE Review Panel is convened to address the procedure and the administration of the JE Review process that has been identified as flawed.

This will be the final stage of the JE Review Appeal process. There will be no further right of appeal after this hearing or if a second job evaluation is carried out.

## **EMPLOYMENT APPEALS SUB-COMMITTEE PROCEDURE**

### **JOB EVALUATION REVIEW APPEALS**

1. The role of the Employment Appeals Sub-Committee in respect of Job Evaluation Review Appeals is to consider and determine appeals against the procedure and the administration of the JE Review process. These procedures apply to all employees whose grade is determined by officers of the Council applying the HAY Job Evaluation scheme. Alternative arrangements are in place for officers graded on Senior Management Grades and above who have their grades determined externally by HAY and they are excluded from this process.

### **JOB EVALUATION APPEAL PANEL**

2. The Employment Appeals Sub-Committee consists of three elected Members and is appointed by the Employment and Appeals Committee. Each Member on the Sub-Committee can have two named deputies appointed by the Employment and Appeals Committee who can deputise for them if they are unable to make the meeting or have a conflict of interest. The Sub-Committee will be quorate if two Members are present to hear the appeal. Meetings of the Sub-Committee are subject to Local Government (Access to Information) Act 1985. The press and public will need to be excluded from the meeting as an appeal is a confidential employee matter.

## **PROCEDURE**

### **Lodging the Appeal**

If an employee wishes to appeal against the procedure and the administration of the JE Review process this must be lodged by the employee writing a letter to the relevant Strategic Director. The letter must be received from the employee within ten working days of the date of us informing all those employees that they now have a further right of appeal (ie by xxxx ). The letter of appeal must state the detailed reasons for the appeal.

You may appeal against the procedure and the administration of the JE Review process in relation to matters such as:

- Not being allowed to have a trade union representative or work colleague in attendance to support you
- Not being allowed to state your case e.g. in person
- Not being offered an alternative date when the original date for the review meeting was inconvenient to the employee.
- Not having a properly constituted Panel to hear your review. Each JE Review Panel should have consisted of a senior manager (Director, Assistant Director, or Head of Service) and 2 HAY trained JE analysts from a pool of trade union representatives, managers and HR staff. (This pool may also comprise ex employees who had been HAY trained and undertaken evaluations on behalf of the council whilst they were employees.)

- Not being allowed to submit relevant paperwork relating to the JE Review (Note: the due date for submissions was 14 January 2010)

Only those staff who had a JE Review undertaken can access this Appeal process, however you will not be eligible to appeal if your original JE Review resulted in an increase in the Level previously awarded.

If the Strategic Director does not receive a letter of appeal within ten working days (ie by xxxx) this will be construed as a waiver of the employee's right of appeal.

### **Convening the Appeal Hearing**

4. The Strategic Director will advise Human Resources that an appeal has been received so that the necessary arrangements can be made through Committee and Member Services for a meeting of the Sub-Committee to be convened.
5. The appeal hearing should be convened as soon as possible; this should normally be within 25 working days of the receipt of the employee's letter of appeal but will be subject to availability of Members.

### **Notifying the Employee**

6. The employee will be given at least 15 working days' written notice of the date of the appeal hearing. The letter of notification will include the following:
  - The date, time and place of the hearing;
  - The employee's right to be accompanied by a trade union representative or a work colleague;
  - The names of the Members of the Sub-Committee hearing the appeal;
  - The name of the Chair of the original JE Review Panel presenting the management case for the outcomes of the Panel who will be supported by the HR representative from the original panel;
  - A copy of this procedure;
  - A notification of the employee's right to present a written submission including witness statements (from anyone else who was present at the original JE Review hearing or was involved in the original JE Review eg other affected staff) which must be supplied to Committee and Member Services at least ten working days prior to the hearing;
  - The employee's responsibility to arrange to call their witnesses – a list of these with all the accompanying witness statements should also be supplied to Committee and Member Services.

### **Provision of Documents**

7. The employee's written submission with any witness statements and the management submission with the witness statements will be exchanged between the parties at least seven working days prior to the hearing. These papers will be attached to the Sub-Committee agenda. All papers should be regarded as strictly confidential.

### **Attendance at the Hearing**

8. The employee must attend in person. If the employee fails to attend the hearing without just cause the Sub-Committee may decide to proceed in his or her absence. It is important for the employee to notify Committee and Member Services if he or she cannot attend, giving the reasons for non-attendance as soon as possible prior to the commencement of the hearing. Only legitimate reasons for non-attendance will be accepted, such as sickness supported by a medical certificate.
9. All Members of the Sub-Committee must be present throughout the hearing.

### **Advice and Support at the Hearing**

10. The Sub-Committee will be advised by Legal and HR Representatives. None of the advisors in attendance at the hearing will have had any previous involvement in the original JE Review Panel.
11. An officer from Committee and Member Services will attend to take confidential notes of the hearing. These notes will not be verbatim but will provide a record of the evidence submitted at the hearing and the Sub-Committee's final decision. No audio recording of the hearing will be allowed. The notes are for the Council's records only and will not be produced to the employee.

### **Matters the Appeals Sub-Committee Can Consider**

12. The Sub-Committee should confine itself to considering the specific grounds of the appeal and the evidence presented by both sides. It will not consider the JE outcome score as this can only be undertaken by HAY trained analysts.
13. The Sub-Committee will not accept new evidence regarding the duties and responsibilities of an employee's post as the Sub-Committee is not determining the appropriateness or otherwise of the JE outcome score. The Sub-Committee will restrict its considerations to whether or not there were failings in the procedure and the administration of the JE Review process.

### **Witness Evidence**

14. There is no requirement on either side to call witnesses to attend the Sub-Committee as witness statements can be presented in their written submissions. Witnesses, if they are called, should appear before the Sub-Committee one at a time and should only be present while they are giving evidence or being questioned. Witnesses will be warned that they should keep matters confidential and should not collude with any other witnesses.



Generally, witnesses only need to be called if their witness statements are contested by either side.

### **Prior to the Hearing**

15. Members of the Sub-Committee will read both the employee's and management's submissions prior to the hearing so that they are prepared for the hearing itself. Both the employee and the management side should have regard to this in presenting their cases at the hearing.

### **Conduct of the Hearing**

16. A short pre-meeting will be necessary at the commencement of the hearing so that a Chair can be elected and that the Sub-Committee members are clear about the procedure to be followed. This pre-meeting will be attended by the Sub-Committee Members, the advisors and the Committee Administrator referred to in paragraphs 10 and 11 above. Members of the Sub-Committee should not discuss the issues prior to the hearing with either the manager presenting the case, the employee or with anyone else.
17. The hearing procedure for the Appeals Sub-Committee is shown at Appendix A.

### **Decisions**

18. The Sub-Committee can take one of the following forms of action at the end of the hearing:
  - Uphold the appeal;
  - Dismiss the appeal;

Where the Sub-Committee uphold the appeal and agree that the procedural arrangements for the original JE Review hearing were flawed the remedy will be for the Sub-Committee to request that a second internal JE Review Panel is convened to address the procedure and the administration of the JE Review process that has been identified as flawed.

This will be the final stage of the JE Review Appeal process. There will be no further right of appeal after this hearing or if a second job evaluation review is carried out.

**EMPLOYMENT APPEALS SUB-COMMITTEE HEARING PROCEDURE**

1. The Chair of the Appeals Sub-Committee will invite the employee and his/her trade union representative or work colleague and the Manager into the hearing room together
2. The Chair will open the hearing by introducing all those present and to confirm the purpose of the hearing under the appropriate employment procedure.
3. The Chair will state the grounds for the appeal and ask the employee whether these are correct. If there is a need for clarity, the Chair should ask the employee to give further amplification on any points.
4. The employee and/or his/her representative will present the appeal and call witnesses as necessary. Witnesses will appear one at a time and will only be present while they are giving evidence or being questioned.
5. The Manager may ask questions of the employee and/or his/her representative and any witnesses. Members of the Appeals Sub-Committee and the advisors present may also ask questions relating to the evidence submitted to the hearing.
6. The employee and/or his/her representative will be given the opportunity to re-examine witnesses, if this is necessary, but must not introduce any new evidence at this stage.
7. The Manager will present the Council's case including calling witnesses as necessary. Witnesses will appear one at a time and will only be present while they are giving evidence or being questioned.
8. The employee and/or his/her representative may ask questions of the Manager and any witnesses. Members of the Appeals Sub-Committee and the advisors present may also ask questions relating to the evidence submitted to the hearing.
9. The Manager will be given the opportunity to re-examine his or her witnesses if this is necessary, but must not introduce any new evidence at this stage.
10. The Manager should then summarise the Council's case but should not include the introduction of any new evidence.
11. The employee and/or his/her representative should then summarise the employee's case but should not include the introduction of any new evidence.
12. Either party is entitled to request an adjournment at any stage in the proceedings to consider its position. The Chair will decide on such requests including the length of the adjournment.
13. All parties should withdraw from the room while the Appeals Sub-Committee considers the evidence and comes to a decision. The advisors together with the Committee Administrator should remain in the room to give appropriate advice but will not be involved in the decision making.

14. If, as part of the deliberations, it is necessary to recall either party or any witnesses for further questioning then all parties must be present.
15. Where it is evident that further information is required before reaching a decision the appeal hearing should be adjourned with a view to being reconvened once the necessary information has been obtained.
16. Wherever possible, the decision should be communicated orally to both parties at the end of the hearing. If the Appeals Sub-Committee is likely to deliberate for some time this may not be possible and both parties will be informed of the decision as soon as practicable. This will be confirmed in writing within 5 working days of the hearing.

May 2010

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**AGENDA ITEM 6a**

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of the Local Government Act 1972.

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**AGENDA ITEM 6b**

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