

CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of Meeting: 30th June 2011
Report of: Democratic and Registration Services Manager
Subject/Title: Appointment of Appeals Sub-Committee

1.0 Report Summary

- 1.1 This report sets out proposals for interim arrangements for considering appeals through the appointment of an Appeals Sub-Committee.

2.0 Recommendations

2.1 That

- (1) an Appeals Sub-Committee be appointed with full delegated powers to hear and determine the following:
 - appeals lodged under the Marriage Acts.
 - appeals lodged with the Council for determination, as authorised under all relevant education legislation, excluding those duties falling to the Independent Appeals Panel (schools admissions and exclusions).
 - appeals lodged with the Council in respect of school transport.
 - appeals from bus contractors in accordance with contract procedures.
 - any appeals lodged with the Council as Social Services Authority, and as authorised under all relevant social services legislation.
- (2) the Sub-Committee comprise 5 members (3 Con; 1 Lab; 1 Ind) to be nominated by the Political Groups;
- (3) the Officers arrange suitable training for the members appointed to the Sub-Committee;
- (4) the Appeals Sub-Committee's meetings be held, wherever possible, on those dates already scheduled in the calendar of meetings for the former Appeals Committee; and
- (5) the Committee note that the arrangements for dealing with appeals are to be reviewed by the Constitution Committee at its next meeting and the outcome of that review be awaited.

3.0 Reasons for Recommendations

- 3.1 To provide a mechanism for considering appeals while the future placement of the appeals function within the Council's committee structure is under review.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 None identified.

7.0 Financial Implications

- 7.1 None identified.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Council has a legal duty to consider a range of appeals in relation to its services and contractual arrangements.

9.0 Risk Management

- 9.1 Failure to have proper arrangements in place to consider appeals puts the Council at risk of not fulfilling its statutory obligations.

10.0 Background and Options

- 10.1 The Council at its Annual Meeting on 18th May 2011 reviewed the Council's committee structure and in doing so decided not to appoint an Appeals Committee as a standalone body. The former Appeals Committee had been responsible for the following functions:

- Hearing and determining appeals lodged under the Marriage Acts.
- Hearing and determining any appeals lodged with the Council for determination, as authorised under all relevant education legislation, excluding those duties falling to the Independent Appeals Panel (schools admissions and exclusions).
- Hearing and determining any appeals lodged with the Council in respect of school transport.
- Hearing and determining appeals from bus contractors in accordance with contract procedures.

- Hearing and determining any appeals lodged with the Council as Social Services Authority, and as authorised under all relevant social services legislation.

- 10.2 The Council transferred these functions to the Audit and Governance Committee.
- 10.3 The Officers have now given further consideration to these arrangements and in particular to whether the Audit and Governance Committee is the appropriate body to consider appeals. The Audit and Governance Committee was established to raise the profile of internal control, risk management and financial reporting within the organisation. CIPFA best practice suggests that these functions are best delivered by a committee separated from other key functions of the Council and that such committees are likely to be more effective by focussing on their own defined areas of business rather than on a broader remit. The Committee is therefore advised that it would be appropriate for another decision-making body to perform the appeals role. The Constitution Committee will therefore be asked at its next meeting to review the arrangements for dealing with appeals within the Council's committee structure with a view to making suitable recommendations to Council.
- 10.4 In the meantime, there are a number of appeals waiting to be heard and for the time being the Audit and Governance Committee is the responsible body. The Committee is therefore required to determine interim arrangements for considering appeals.
- 10.5 Meetings of the former Appeals Committee were scheduled on a monthly basis but over the last twelve months 7 meetings were held, dealing with a total of 9 appeals. The amount of time involved in preparing for and then hearing appeals, and the procedures involved, would make it inappropriate for the Committee itself to deal with appeals. In addition, the former Appeals Committee, which comprised 7 members, was considered to be too large.
- 10.6 It is therefore proposed that the Committee appoint an Appeals Sub-Committee of 5 Members on a politically-proportionate basis.
- 10.7 In order to consider appeals, Members need to receive appropriate training and the Officers would need to arrange this for the Members concerned. Members of the Sub-Committee need not be members of the parent committee. This would enable Members who are not on the Audit and Governance Committee but who are already experienced with appeals work and interested in further involvement to be appointed to the Sub-Committee.
- 10.8 It is proposed that wherever possible, the Sub-Committee's meetings would be held on those dates already scheduled in the calendar of meetings for the former Appeals Committee.
- 10.9 Assuming that the Constitution Committee will recommend to Council that a decision-making body other than this Committee should consider appeals in the future, it is anticipated that the interim sub-committee will only be needed for one or two appeals meetings.

10.10 If the membership of the sub-committee is drawn from the wider Council membership as suggested, and not simply from this Committee, this will help in any transition arrangements in that those same trained members could then be considered for appointment to any future appeals sub-committee appointed by another decision-making body.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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