

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 14th July 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 the appointment of an Appeals Sub-Committee.

2.0 Recommendations

- 2.1 That Council be recommended 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; and

(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.

3.0 Reasons for Recommendations

- 3.1 To provide a mechanism for determining appeals.

4.0 Wards Affected

4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications (including Carbon Reduction and 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 and is asked to review the arrangements with a view to making suitable recommendations to Council.

- 10.4 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.
- 10.5 It is therefore proposed that the Committee appoint an Appeals Sub-Committee of 5 Members on a politically-proportionate basis. Such an arrangement has already been agreed on an interim basis by the Audit and Governance Committee, which currently has responsibility for the appeals function, pending this Committee's consideration of the longer term arrangements.
- 10.6 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.
- 10.7 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.

11.0 Access to Information

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

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