

# Employment and Appeals Panel

Wednesday, 7th September,  
2011

at 2.00 pm

## **PLEASE NOTE TIME OF MEETING**

Committee Room 1 - Civic Centre

This meeting is open to the public

### **Members**

Councillor Kolker (Chair)  
Councillor B Harris  
Councillor McEwing  
Councillor Fitzgerald  
Councillor Noon  
Councillor Osmond  
Councillor Pope

### **Contacts**

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## PUBLIC INFORMATION

### **Role of the Employment and Appeals Panel**

**The Panel** is responsible in general terms for determining appeals against decisions of the Council, other than where the matter falls within the terms of reference of another Panel, including in particular appeals arising from a decision: -

#### **The Panel also**

- deals with all matters relating to hearings and determination of any employee grievance or appeal under the Council's disciplinary, grievance, dismissal and other employee relations procedure.
- has power to appoint staff and to determine the terms and conditions on which staff hold office.
- is responsible for functions relating to local government pensions etc.

### **Southampton City Council's Seven Priorities:**

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

### **Public Representations**

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

**Smoking policy** – the Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones** – please turn off your mobile telephone whilst in the meeting.

**Fire Procedure** – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access** – access is available for the disabled. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2011/12:**

<b>2011</b>	<b>2012</b>
Weds 20 July	11 January
Weds 3 Aug	25 January
Weds 31 Aug	8 February
Weds 21 Sept	29 February
Weds 12 Oct	21 March
Weds 2 Nov	11 April
Weds 23 Nov	25 April
Weds 14 Dec	

## CONDUCT OF MEETING

### **Terms of Reference**

The terms of reference of the Panel are contained in the Council's Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Rules of Procedure**

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### **Quorum**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

### **Disclosure of Interests**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

### **Personal Interests**

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
  - (a) any employment or business carried on by such person;
  - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
  - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

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## **Prejudicial Interests**

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available via the City Council's website

### **1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS**

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Panel Administrator prior to the commencement of the meeting

### **3 STATEMENT FROM THE CHAIR**

### **4 MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)**

To approve and sign as a correct record the Minutes of the meetings held on 24<sup>th</sup> August, 2011 and to deal with any matters arising, attached.

### **5 EXCLUSION OF PRESS AND PUBLIC**

Chair to move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of the following item, based on Categories 1, 2 and 3 of paragraph 10.4 of the Access to Information Procedure Rules.

The information contained therein is potentially exempt as it relates to individual personal details and information held under the Data Protection Act 1998. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

### **6 APPEAL AGAINST DISMISSAL**

Confidential report of the Head of Organisational Development seeking the Panel's consideration in regard to an appeal against dismissal, attached.

Tuesday, 30 August 2011

Head of Legal and Democratic Services

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EMPLOYMENT AND APPEALS PANEL  
MINUTES OF THE MEETING HELD ON 3 August 2011

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Present: Councillors Kolker (Chair), Fitzgerald, Noon, Osmond and Pope

Apologies: Councillors Harris and McEwing

15. **MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)**  
**RESOLVED** that the Minutes of the meetings held on 22<sup>nd</sup> and 29<sup>th</sup> June 2011 be approved and signed as a correct record.

16. **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of the confidential the item below.

This is based on Categories 1, 2 and 3 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt as it relates to individual personal details and information held under the Data Protection Act 1998. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

17. **HOME TO SCHOOL TRANSPORT APPEAL**

The Panel considered the confidential report of the Transport Co-ordination Manager together with evidence supplied by the appellant requesting the Panel to consider an appeal against the refusal by the Local Authority to provide a seat on a specific vehicle for home to school transport. (Copy of the report circulated with the agenda and appended to the signed minutes).

**RESOLVED** that the appeal not be upheld.

The reasons for the decisions are as set out in the decision letter to the applicant dated 5<sup>th</sup> August, 2011.

18. **APPEAL AGAINST DISMISSAL**

ITEM DEFERRED FOR ADDITIONAL INFORMATION TO BE CONSIDERED.  
MEETING TO BE RECONVENED ON WEDNESDAY 24<sup>TH</sup> AUGUST, 2011.

NOTE: This appeal has now been withdrawn

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# Agenda Item 6

by virtue of paragraph number 1, 2, 3 of the Council's Access to information Procedure Rules

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