

# Employment and Appeals Panel

Wednesday, 14th December,  
2016  
at 2.00 pm

## **PLEASE NOTE TIME OF MEETING**

Committee Room 1 - Civic Centre

This meeting is open to the public

### **Members**

Councillor Noon (Chair)  
Councillor Burke  
Councillor B Harris (Vice-Chair)  
Councillor Taggart  
Councillor Wilkinson  
Councillor Whitbread  
Councillor White

### **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 Priorities:**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

### **Dates of Meetings: Municipal Year 2016/17:**

<b>2016</b>	<b>2017</b>
13 <sup>th</sup> July	11 <sup>th</sup> January
3 <sup>rd</sup> August	1 <sup>st</sup> February
24 <sup>th</sup> August	22 <sup>nd</sup> February
14 <sup>th</sup> September	22 <sup>nd</sup> March
5 <sup>th</sup> October	12 <sup>th</sup> April
26 <sup>th</sup> October	
23 <sup>rd</sup> November	
14 <sup>th</sup> December	

## **Public Representations**

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

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

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**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 disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

## **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 "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

### **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

### **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

### **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 PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary 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 Democratic Support Officer.

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

### **4 MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)** (Pages 1 - 2)

To approve and sign as a correct record the Minutes of the meetings held on 23<sup>rd</sup> November 2016 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 item 6 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** (Pages 3 - 150)

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

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SOUTHAMPTON CITY COUNCIL  
EMPLOYMENT AND APPEALS PANEL

MINUTES OF THE MEETING HELD ON 23 NOVEMBER 2016

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Present: Councillors Noon (Chair), Burke, B Harris, White, Taggart and Wilkinson

Apologies: Councillor Lee Whitbread

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

**RESOLVED:** that the minutes for the Panel meeting on 13<sup>th</sup> July 2016 be approved and signed as a correct record.

5. **EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that the Chair moved 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 item 6.

Confidentiality 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.

6. **APPEAL AGAINST DISMISSAL**

The Panel considered a confidential report seeking the Panel's consideration in regard to an appeal against dismissal.

**RESOLVED**

- (i) That the Panel upheld the appeal against summary dismissal for gross misconduct and that the sanction of a final written warning be imposed for a 12 month period instead;
- (ii) That the Panel recommended that management review the training for and delivery of the policies relating to:
  - the code of conduct;
  - the disposal of side waste; and
  - the appropriation of waste items for personal gain for all staff;

- with particular reference to the varying educational skill levels and language abilities of staff in order to ensure that staff were fully apprised of the correct practice; and
- (iii) That the Panel recommended that the management of the mentoring system for new employees in the waste crews be reviewed to make this more robust and effective.



Document is Confidential

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