

Report to Council

Subject: Employee Appeal Procedures
Date: 13 February 2013
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1. Purpose of the Report

- To propose minor variations to the Injury Allowance Policy in order to allow employees to have a fair and proper appeal right against decisions taken under that Policy.

2. Background

As part of the constitutional arrangements of the Council, the roles of two long-standing sub-committees, the Appeals Sub-Committee and the Early Retirements Sub-Committee, were combined and included in the Appeals and Retirements Committee.

Although in general terms this arrangement has been proven to work well, a potential flaw has been identified in that in certain circumstances, it may be the case that a decision is taken by the Appeals and Retirements Committee against which an employee wishes to appeal.

Specifically the Injury Allowance Policy currently provides that the Retirements Sub-Committee (now incorporated into the Appeals and Retirements Committee) will determine the amount of the allowance to be paid. Where the claimant is dissatisfied with the level of award there is a right of appeal to the Pay and Conditions Appeals Sub-Committee, which no longer exists in the Council's Committee structure. As a result, the employee appeal could fall back to the committee that took the original decision (the remit of which includes the power to deal with appeals), which would not be in accordance with the rules of natural justice, or full Council, which would not be appropriate.

In addition, the Council's current Injury Allowance Policy allows for a periodic review of an allowance paid to an employee (or ex-employee) under the scheme. The initial decision about the application of such an award would currently fall to the Appeals and Retirements Committee, however, the policy is mute on the point of responsibility for subsequent appeal decisions. Although the policy is rare in its application, it again needs to reflect an arrangement that allows both proper consideration of a review application and natural justice.

3. Proposal

It is proposed that the Injury Allowance Policy is amended so that the Chief Executive (as Head of Paid Service) has the power to determine the amount of the allowance to be paid in the first instance with a right of appeal to the Appeals and Retirements Committee.

It is also proposed that the annual review is carried out by the Chief Executive with a right of appeal to the Appeals and Retirements Committee.

Transitional Arrangements

The Council is currently in receipt of a claim which needs to be determined under the Policy. The claimant is aware of the current version of the Policy and will have a legitimate expectation that the initial decision will be made by the Appeals and Retirements Committee.

In view of this, it is proposed that, for this case only, the decision is made by the Committee and not by the Chief Executive under delegated powers as set out above.

That being the case, any appeal would have to be determined by Council. It is considered that this would not be appropriate and instead on this occasion the power to determine an appeal in connection with the existing claim is delegated to the Appointments and Conditions of Service Committee.

Annual reviews in relation to this claim would be dealt with by the Chief Executive with an appeal to the Appeals and Retirements Committee as set out in this report.

4. Recommendation

It is **recommended** that Council:

- 1) amends the Injury Allowance Policy so that:
 - a) the Chief Executive has the power to determine the value of allowance paid under the Policy in the first instance;
 - b) the Appeals and Retirements Committee has the power to deal with an appeal where the claimant is dissatisfied with the level of award;
 - c) the Chief Executive has the power to carry out annual reviews; and
 - d) the Appeals and Retirements Committee will hear any appeal against the decision on review.
- 2) approves the transitional arrangements set out above to allow the value of allowances in connection with the existing claim to be determined by the Appeals and Retirements Committee with any appeal decided by the Appointments and Conditions of Service Committee.