

COMMITTEE: EMPLOYMENT COMMITTEE
DATE: 31ST OCTOBER 2016
SUBJECT: APPEAL AGAINST DISMISSAL
PORTFOLIO HOLDER COUNCILLOR GRAHAM MARSH
Ward(s) affected: N/A

Brief description of report content and the decision being asked for:

Summary:

This report considers an Appeal against dismissal from an employee who was dismissed with effect from 21st September 2016

Recommendations:

That Members either uphold or dismiss the Appeal.

This report has been prepared by:

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This report was prepared after consultation with:

Nick Davis, Team Leader (Waste & Markets)

This report is number 1 in a series of 1.

This report has been signed off by:

Rachel Robinson, Interim HR Service Manager (CPBS)

The following policies form a context to this report:

Disciplinary Procedure

This report is not a key decision included in the Forward Plan.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(papers relied on to write the report which are published but do not contain exempt information)

1. None

OTHER HELPFUL PAPERS

(papers which the report author considers might be helpful – this might include published material)

1. None

Local Government (Access to Information Act) 1985

Is the report Exempt – NO

Exemptions apply to Appendices 3, 4, 5 & 6.

- If Yes** (a) State under which paragraph i.e. "Not for publication by virtue of paragraph 1 and 2 of Part I of Schedule 12A of the Local Government Act 1972".
- (b) Give the reasons why the exemption outweighs the public interest in disclosing the information.

If No please delete all text following the initial declaration (in bold)

**Please contact the person who has written this report or Nick Davis
Tel. No. 01507 613540
e-mail: nick.davis@e-lindsey.gov.uk, if you want more information
about this report or the background papers.**

1.0. INTRODUCTION

- 1.1. The Council Disciplinary Procedure allows for an employee to appeal against their dismissal, to the Employment Committee, if they believe their dismissal was unfair or unjust.

2.0. BACKGROUND

- 2.1. An employee was summarily dismissed (dismissal without notice) on 21st September 2016. The employee has not produced any further evidence to consider. His appeal letter received 23rd September 2016 appeals against the dismissal on the following grounds:

- *I believe the decision of gross misconduct was unfair*

3.0. SUBJECT INFORMATION AND ISSUES/FACTS AND FIGURES

3.1. N/A

4.0. SUPPLEMENTARY FACTS

4.1. A number of documents are attached to this report as follows:

Appendix	Document	Page
Appendix 1	The procedure to be followed by the Committee to deal with the Appeal	21
Appendix 2	A copy of the Council's Disciplinary Procedure	23 - 44
Appendix 3	The bundle of information considered at the disciplinary hearing on 21 st September 2016	45 - 122
Appendix 4	Minutes of the Disciplinary Hearing held on 21 st September 2016	123- 126
Appendix 5	Correspondence following the dismissal (Hearing outcome letter & Appeal Letter)	127 - 134

4.2 A copy of the Appendices listed above has been given to the dismissed employee along with a copy of this report. The employee is entitled to be accompanied at the meeting by a representative of his choice.

4.3 The Committee should follow the procedure at Appendix 1 and, based upon the balance of probabilities, decide to either, uphold the appeal and reinstate the employee with a lesser sanction, or to dismiss the Appeal. Members should note that if the Appeal is dismissed the employee could seek redress through an application to an Employment Tribunal (ET). HR support from Compass Point Business Services (CPBS) will be provided to the Committee during the course of the Appeal Hearing.

5.0. COUNCILLOR COMMENTS – If no comments are received from one or more of the Ward Members consulted state which Councillor(s) did not respond

5.1. N/A

6.0. DISCUSSION / CONSIDERATION – ISSUES / CONCLUSION

6.1. N/A

7.0. OTHER OPTIONS FOR CONSIDERATION (drawn from previous sections)

7.1. N/A

8.0. PERFORMANCE MONITORING

	Subject	Deadline	Responsible Officer
8.1.	N/A		

9.0. RISK ASSESSMENT

- 9.1. Reputation risk if the employee submits an application to an ET and succeeds.

10.0. ECONOMIC IMPACT ON THE LOCAL ECONOMY. PLEASE ALSO INCLUDE NAME OF OFFICER RESPONDING

- 10.1. N/A

11.0. LEGAL CONSIDERATIONS/IMPLICATIONS. PLEASE ALSO INCLUDE NAME OF OFFICER RESPONDING

- 11.1. Employee has statutory employment rights and he can exercise these rights if he considers the decision made by the Employment Committee is unfair.

12.0. INCLUDE IF APPROPRIATE AND ONLY BRIEF EXPLANATION OF ISSUE. PLEASE ALSO INCLUDE NAME OF OFFICER RESPONDING

- 12.1. **Environmental issues** – N/A
- 12.2. **Human Resources** – Employee has the right to submit an application to an ET
- 12.3. **Section 17** – N/A
- 12.4. **FOI/Human Rights/Data Protection** – N/A
- 12.5. **Equality and Diversity** – N/A

13.0. HOW DO THE ACTIONS/RECOMMENDATIONS CONTAINED IN THIS REPORT DELIVER OUR COMMUNITY AND CORPORATE STRATEGIES?

- 13.1. N/A