

## EAST LINDSEY DISTRICT COUNCIL REPORT

**COMMITTEE:** EMPLOYMENT COMMITTEE  
**DATE:** 15<sup>TH</sup> NOVEMBER 2016  
**SUBJECT:** APPEAL AGAINST DISMISAL  
**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 9<sup>th</sup> 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:**

Victoria Burgess, Strategic Development Manager

#### **This report is number 1 in a series of 1.**

#### **This report has been signed off by:**

Claire Burton, HR Manager (Spalding), CPBS.  
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#### **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 but which are not published and 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  
Appendices are Exempt as marked**

**If Yes** (a) Not for publication by virtue of paragraph 1 and 2 of Part I of Schedule 12A of the Local Government Act 1972  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  
Victoria Burgess  
Tel. No. 01507 613214  
e-mail: Claire Burton 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 9<sup>th</sup> September 2016. The employee has not produced any further evidence to consider. Her appeal letter dated 23<sup>rd</sup> September 2016 appeals against the dismissal on the following grounds:
  - I feel the decision was very unfair and I would like to formally appeal against this

### **3.0. SUBJECT INFORMATION AND ISSUES/FACTS AND FIGURES**

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

<b>Appendix</b>	<b>Document</b>	<b>Page</b>
Appendix 1	The procedure to be followed by the Committee to deal with the Appeal	Pack 1 Page 7
Appendix 2	A copy of the Council's Disciplinary Procedure	Pack 1 Pages 9 - 30
Appendix 3	The bundle of information considered at the disciplinary hearing on 7 <sup>th</sup> September 2016	Pack 1 - Pages 31 – 130 Pack 2 - Pages 1 – 74 Pack 3 - Pages 1 - 56
Appendix 4	Minutes of the Disciplinary Hearing held on 7 <sup>th</sup> September 2016	Pack 4 Pages 1 - 34
Appendix 5	Correspondence following the dismissal	Pack 4 Pages 35 - 40

3.2 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. HR support from Compass Point Business Services (CPBS) will be provided to the Committee during the course of the Appeal Hearing.

3.3 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 her choice.

**4.0. SUPPLEMENTARY FACTS**

4.1. N/A

**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 – including reasons for recommendation(s)**

6.1. N/A

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

7.1. N/A

**8.0. PERFORMANCE MONITORING**

<b>Subject</b>	<b>Deadline</b>	<b>Responsible Officer</b>
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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. FINANCIAL CONSIDERATIONS/IMPLICATIONS**

10.1. None from the report with potential financial liability if the appeal is dismissed and the employee claims unfair dismissal and is successful.

**11.0. LEGAL CONSIDERATIONS/IMPLICATIONS**

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

**12.0. INCLUDE IF APPROPRIATE AND ONLY BRIEF EXPLANATION OF ISSUE**

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. RECOMMENDATIONS**

13.1. That members either uphold or dismiss the appeal

REASON: Forms part of the Council's disciplinary procedure

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

14.1. N/A