



# **DORCHESTER TOWN COUNCIL**

## ***STAFF DOCUMENTS SERIES***

# **APPEALS PROCEDURE**

## **APPEALS AGAINST GRADING**

### **PART I**

#### **ROLES & FUNCTIONS**

1. The Appeals Panel is to determine the claim in relation to a 'post' and not in respect of the particular officer who happens to be occupying the post, although the appeal is necessarily lodged by the occupant.
2. It cannot be too strongly emphasised that the function of the Appeals Panel is to decide what is the proper decision to be made on any appeal having regard to the evidence submitted and the rules and regulations stipulated from time to time.
3. It should not be the concern of the Appeals Panel to secure preordained results either for or against the appellants or to reflect on possible repercussive consequences flowing from decisions. These are not the concern of the Appeals Panel and should not influence decisions.
4. It is important for the reputation and integrity of the machinery that all those who appear before the Appeals Panel are persuaded that the case has been properly heard and the decision, whatever it may be, has been reached with complete objectivity based on all the facts available.
5. The Appeals Panel will be convened as and when necessary and will consist of the three most senior councillors who are available and who were not involved in taking the decision which is the subject of the appeal except by reason of their attendance at a meeting of the Council or of a Committee where recommendations of a Committee or of a Sub-Committee were ratified without detailed discussion. Prior to commencing to hear any appeal the Appeals Panel shall appoint a Chairman from amongst their number.
6. Notice of Appeal to the Council shall be given within three months of the date of which an officer is notified by the Council of the grading of their post and shall be delivered in writing to the Town Clerk. Where in a review of an establishment by the Council the grading and responsibilities of a post are not varied an officer has no right of appeal. Where, although there has been no alteration in the duties, the grading of a post has been improved by the Council on a general review of its establishment the officer concerned has a right of appeal.
7. It is competent for the Appeals Panel to hear a grading appeal after an appellant has left the service of the Council which they served at the date of submission of the appeal.
8. An officer accepting a post after advertisement has no right of appeal against the original grading of that post provided that the post was advertised at the grade determined originally by the Council or in the event of such a grade having been altered on appeal the grade so determined on appeal.

## **DECISIONS OF THE APPEALS PANEL**

1. In some cases the Town Clerk or his representative may contend that an appellant has no right of appeal. In such instances he will inform the Appeals Panel and at the hearing the Appeals Panel will first consider representations from both parties on the right of appeal issue. The Panel will then either state that there is no right of appeal, or, if they did decide that a right of appeal exists, or that the point can only be resolved in the light of facts emerging as a result of a hearing of the detailed case, then it will hear the case.
2. Matters which will not be taken into account in reaching a decision:
  - (a) any questions regarding the suitability of an officer for the post held, either as to qualifications or capabilities;
  - (b) the Council's case shall not be based on the personality of the officer, but only on the correct grading of the post in the light of the duties and responsibilities involved;
  - (c) references on a comparison basis to the grading of other posts within the Council or in other authorities.

(The Appeals Panel do not consider these will necessarily be helpful in arriving at a conclusion. In general, the Appeals Panel will have no detailed knowledge of the duties attached to the other post quoted and will not, therefore, be able to accept any validity in such references).

3. The procedures for submission of appeals by both parties are set out in Part II of this document and must be followed in all instances. At the end of an appeal the Appeals Panel will find in favour of either the appellant or the Council. It is possible that the Appeals panel will fail to agree in which case a failure to agree will be registered. When the Appeals Panel register a decision of failure to agree, this shall have the effect of bringing into force immediately the Council's decision in respect of the grading or other matters which led the officer to make the appeal in the first place.

## **APPEALS AGAINST GRADING**

### **APPEALS PANEL PROCEDURE**

#### **PART II**

#### **1. WRITTEN SUBMISSIONS BY PARTIES PRIOR TO THE APPEALS PANEL HEARING**

- 1.1 To avoid delays in reaching decisions which can be unhelpful to both sides the Council is anxious that cases referred to the Appeals Panel are dealt with as quickly as possible. It is necessary for copies of the documents setting out the respective submissions of the parties to an appeal to be lodged with the Town Clerk. These should be in his hands two weeks before the meeting of the Appeals Panel at which the appeal will be considered. This timetable will be complied with to enable the documents to be circulated to Members of the Panel before the hearing; failure to do so will lead to further delays. The Town Clerk will send copies of the document before the hearing to both the appellant and his or her representative.

#### **2. APPELLANT'S SUBMISSIONS**

- 2.1 The first part of the Appellant's documents will be in the form as set out in Paragraph 5. The grounds of appeal will be briefly summarised under Item 13 and the remainder of the document will contain the detailed submissions put forward by the appellant in support of the claim. In so far as these submissions relate to questions of fact e.g. lists of duties and responsibilities attached to the post, it is requested that the appellant and/or their representative and the Town Clerk or other person representing the Council should agree thereon before incorporation in the document to facilitate the hearing of the case. Where the two parties cannot agree on issues of fact a note relating to the nature of the disagreement will be incorporated in the document. In normal circumstances appeals are based on the contention of the officer concerned that since the post was last graded there has been a substantial increase in the duties and responsibilities such as to warrant the revised grading claim. Thus, in order that the necessary information shall be available to the Appeals Panel the appellant's documents should include:

- (i) A sufficiently comprehensive list of duties required to be undertaken by the appellant at the time of appointment to the post or at the time the grading thereof was last varied, whichever date is the later; and
- (ii) A similar list indicating the duties required to be undertaken at the date the application for regrading was submitted to the Council. Any changes in circumstances prior to the first date in a particular case, or subsequent to the second date are not relevant and will not be accepted as a valid submission by the Appeals Panel. In circumstances where the appeal results from the refusal of an application for regrading the Appeals Panel should have before them only the facts and submissions which have already been placed before the Council by or on the appellant's behalf and on which the Council's decision was taken. The inclusion of additional facts or submissions in these cases might require the Appeals Panel to refer the matter back for further examination by the Council. The appellant's documents should not contain references to any additional matters unless in exceptional circumstances the appellant and/or their

representative and the Town Clerk or other person representing the Council are agreed that it would not be unreasonable for such references to appear.

### **3. THE COUNCIL'S SUBMISSION**

The documents submitted on behalf of the Council by the Town Clerk or other person representing the Council will indicate the Council's view on the application for regrading submitted to it and contain its reasons for non-acceptance of the application. It should not make reference to any changes in the circumstances which have taken place outside the relevant dates - see paragraph 2 above. The submission on behalf of the Council will also incorporate in its document a 'family tree' showing where the appellant fits into the organisation. This 'family tree' shall, where appropriate, show the effect of any organisational changes that may have occurred during the period of time involved in the case under review. In normal circumstances the Council will be expected to produce the 'family tree' and have reached agreement with the appellant on his or her position in it. If agreement cannot be reached the tree should be submitted showing where the disagreement lies. The true establishment should be shown with the gradings of posts incorporated on the family tree.

### **4. PROCEDURE AT APPEALS PANEL**

#### *(a) Attendance at the Hearing*

The appellant and normally his or her representative and the Town Clerk or other person representing the Council appear before the Panel at the same time and are present throughout the proceedings except when the Panel is considering its decision. The representation from the Council is entirely within the discretion of the Council, but will be of assistance to the Appeals Panel if, in appropriate cases, an 'expert witness' is present to answer questions of fact only, raised either by the appellant or by the Appeals Panel. For example, if the Council is represented by the Town Clerk he may not possess expert knowledge on points of detail that may arise and some other responsible member of that work area should if necessary also attend. More commonly in the case of appeals submitted by office staff it might be necessary for the Town Clerk to act as an 'expert witness' and, in these circumstances, the Council's case will be presented by someone other than the Town Clerk. Although it is not normally necessary for the appellant or his/her representative to call other witnesses, this is not precluded.

#### *(b) Proceedings during the Hearing*

Proceedings at meetings of the Appeals Panel are on a comparatively formal basis with the appellant's case being presented first, followed by the Council's case with both parties having the right to reply to the other's case. Normally the Panel will ask questions after both parties have made their submissions and each party will be given an opportunity to question the other if they wish to do so. The procedure is set out in more detail below. The parties are given the opportunity of making oral submission to the Appeals Panel and, in the course of those oral submissions, of emphasising such parts of their written submissions as are deemed to be particularly significant and of commenting as necessary on the case submitted by the other party. The submissions should not make reference to circumstances occurring outside the relevant dates.

(c) *Procedures at the Appeals Panel Hearing*

(i) Appellant's Submission

In the presence of the Council's representatives the appellant (or his or her representative) will represent the appellant's case including calling any witnesses on behalf of the appellant.

(ii) Questions from the Respondent

The Council's representative will have the opportunity to ask questions of the appellant and his or her representative and witnesses.

(iii) Respondent's Submission

In the presence of the appellant (and his or her representative) the Council's representative will present the Council's case including any witnesses on behalf of the Council.

(iv) Questions from the Appellant

The appellant (or his or her representative) will have the opportunity to ask questions of the Council's representative and his or her witnesses.

(v) Questions from the Appeals Panel

The Members of the Appeals Panel will have the opportunity to ask questions of the parties present.

(vi) Summing up by the Respondent

The Council's representative will have the opportunity to summarise the Council's case including the right of reply to submissions made by the appellant. No new information shall be introduced at this stage.

(vii) Summing up by the Appellant

The Appellant (or his or her representative) will have the opportunity to summarise the appellant's case including the right of reply to submissions made on behalf of the Council. No new information shall be introduced at this stage.

(viii) Withdrawal of the Appellant and Respondent

The parties including their representatives and witnesses will withdraw whilst the Panel considers its decision.

(ix) Recall of the parties and the Appeals Panel's Decision

The appellant (and his or her representative) and the Council's representative will be recalled for the Panel's decision to be announced. This will normally be made known on the day of the appeal and will be confirmed in writing shortly thereafter.

**5. Form of First Part of Appellant's Statement**

1. Name of Appellant
2. Qualifications (if any)
3. Post occupied
4. Date of appointment to post
5. Present grade
6. Date from which present grade has applied
7. Grade claimed
8. Date from which revised grade is claimed
9. Date of application to the Council (if applicable)
10. Date of notification of the Council's decision on application (if applicable)
11. Date of notification of appeal to the Appeals Panel
12. Grounds of Appeal.

END