

## **MISCELLANEOUS APPEALS COMMITTEE**

### **A REMIT AND POWERS**

#### **1 Housing Appeals**

To act with powers to determine appeals in relation to the provision of housing services, subject to the following:-

(a) In exercising its powers the Committee shall not depart from the Council's housing policy or policies.

#### **2 Client Affairs and Appeals**

(a) To act with powers in considering and disposing of applications for section 12 payments where these relate to payment of rent arrears.

(b) To deal with problems of clients and families affected by homelessness legislation with particular reference to the care of children.

(c) To consider ex gratia payments to foster parents for damage to property while caring for children.

(d) Any other function relating to the affairs of individual social work services clients, etc. as the Council may, from time to time, determine.

#### **3 Additional Learning Needs Review**

(a) To hear cases where dissatisfaction is expressed by a parent of a child with Additional Learning Needs or by a young person with Additional Learning Needs with a decision relating to Additional Learning Needs service provision, and where the process of mediation and officer review has not produced a decision which is acceptable to the parent or young person concerned.

(b) The Committee shall consider the manner in which the decision was taken and the decision itself which will have been taken on the basis of council policy and the professional judgment of officers.

(c) The Committee shall only consider a case where no statutory right of appeal exists, and where the prior stages of mediation and officer review have been followed without a successful resolution.

(d) The powers of the Committee shall be restricted to making recommendations, if so advised, in the form of a report to the Education Executive.

#### **4 Smoking Fixed Penalty Hearings**

(a) To hear and determine requests for a hearing made in respect of fixed penalty notices issued under section 6 of the Smoking Health and Social Care (Scotland) Act 2005 in respect of offences under sections 1, 2 or 3 of that Act;

(b) Disposals are either to uphold the appeal and withdraw the fixed penalty notice, or to refuse the appeal; and

(c) The hearing is to be conducted in accordance with a procedure set by the Chief Solicitor under delegated powers.

#### **5 Business Improvement District Levy Appeals**

(a) To hear and determine appeals brought against the imposition of a Business Improvement District levy under paragraph 8 of the Schedule to the Planning etc. (Scotland) Act 2006 (Business Improvement Districts Levy) Order 2007;

(b) Disposals are to uphold the appeal in full and cancel the levy made on the appellant and the demand notice sent to him; or to uphold the appeal in part and adjust the amount of liability of the appellant for payment of the levy; or to refuse the appeal; and

(c) The hearing is to be conducted in accordance with a procedure set by the Chief Solicitor under delegated powers.

**B MEMBERSHIP**

1 A panel consisting of 4 Elected Members (3 Labour, 1 Conservative) and 1 of the 4 appointed members under section 124 of the Local Government (Scotland) Act 1973.

2 The panel of members is to be appointed by full council and members are to undergo appropriate training arranged by the Clerk.

3 5 members of the panel are to be called to each meeting of the Committee (subject to G.3, below).

4 Where the Committee is convened to deal with business under its Additional Learning Needs Review functions, the members called by the Clerk shall include the appointed member under section 124 of the Local Government (Scotland) Act 1973 and those members of the panel who are also members of the Education Executive.

5 Where required or allowed by relevant legislation and guidance, all members, including substitutes and including the appointed members, require to have undergone a disclosure check to the satisfaction of the Chief Executive.

**C QUORUM AND VOTING**

1 3 members.

2 Voting shall be conducted in accordance with Standing Order 16 and Standing Order 3, as appropriate.

**D SUBSTITUTES**

1 Substitutes allowed, drawn from the panel of members appointed by the Council.

2 For meetings at which the attendance of the non-elected member of the Committee is required (see B.4, above), a substitute is allowed drawn from the other three appointed members under section 124 of the Local Government (Scotland) Act 1973 (subject to B.2 and B.5 above).

3 Where required or allowed by relevant legislation and guidance, all members, including substitutes and including the appointed members, require to have undergone a disclosure check to the satisfaction of the Chief Executive.

**E MEETINGS (SUBJECT TO STANDING ORDER 41)**

1 *Ad hoc* meetings as required to dispose of business arising, arranged by the Clerk in consultation with the Chair.

- 2 Minutes to be reported to full council for information.
- 3 Where the Committee as part of its decision makes recommendations to full Council or a Committee, or remits any matter of policy for consideration to full council or a Committee, the relevant Depute Chief Executive shall submit a report to the appropriate body as soon as practicable.
- 4 Meetings shall be held as physical, hybrid or remote-access meetings, in accordance with SO41.
- 5 Where 2 metre physical distancing precautions apply in the Civic Centre, the maximum number of members entitled to be physically present for a physical or hybrid meeting shall be the Chair plus 8 more, comprising 2 SNP members, 2 Labour members, 2 Conservative members, the Independent member and the Liberal Democrat member, as appropriate, to be seated in the outer circle
- 6 Where 1 metre physical distancing precautions apply in the Civic Centre, the maximum number of members entitled to be physically present for a physical or hybrid meeting shall be the Chair plus 8 more, comprising 2 SNP members, 2 Labour members, 2 Conservative members, the Independent member and the Liberal Democrat member, as appropriate, to be seated in the outer circle
- 7 Where no physical distancing precautions apply in the Civic Centre, there are no restrictions on the number of members who may be physically present for a physical or hybrid meeting.

**G MISCELLANEOUS**

- 1 The Committee is convened as and when required to dispose of its business.
- 2 Members of the panel will be called to meetings on a rota system to be organised by the Clerk.
- 3 Where the Committee is convened in relation to its Additional Learning Needs Review function, the Clerk shall take all reasonable steps to have only three members in attendance, in order to ensure as far as possible an informal and non-threatening environment for those seeking the review.