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# New Arrangements for Appeals Panel

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<b>Committee considering report:</b>	Council on 14 September 2017
<b>Portfolio Member:</b>	Councillor Graham Jones
<b>Date Portfolio Member agreed report:</b>	3 August 2017
<b>Report Author:</b>	Moira Fraser
<b>Forward Plan Ref:</b>	C3361

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## 1. Purpose of the Report

- 1.1 To propose an increase in the number of Members on an Appeals Panel from three to four and to remove the requirement for a substitute.

## 2. Recommendations

- 2.1 To agree that the Panel for future Appeals Panel meetings will consist of four Members with no substitute required.
- 2.2 Subject to agreement with paragraph 2.1 the necessary changes to be made to the Council's Constitution.

## 3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** The Constitution would have to be amended to reflect the changes
- 3.3 **Personnel:** N/a
- 3.4 **Legal:** TBC
- 3.5 **Risk Management:** N/a
- 3.6 **Property:** N/a
- 3.7 **Other:** N/a

## 4. Other options considered

- 4.1 To retain the current arrangements.

## Executive Summary

### 5. Introduction / Background

- 5.1 The Governance and Ethics Committee, at the 19 June 2017 meeting, considered a proposal to increase the number of Members on Licensing Sub-Committees from three plus a substitute to four with no substitute required. The Committee agreed to recommend to Full Council that this recommendation be adopted.
- 5.2 In addition they also requested that consideration be given to applying the same principle to the number of Members required for an Appeals Panel. The basis for this was that the two bodies were subject to very similar operational practices.
- 5.3 The function of the Appeals Panel is the determination of an appeal against any decision made by or on behalf of the Authority. The panel deals with a wide range of appeals including appeals in respect of council tax, home-to-school transport and refusal to grant permission in respect of Tourist Information Signs.
- 5.4 Currently the Full Appeals Panel comprises 12 Members appointed on a politically proportionate basis at the Annual Council meeting. Where an appeal needs to be heard an Appeals Panel of three Members and a substitute is constituted by the Head of Strategic Support. The substitute is required to attend the whole hearing in case an unexpected conflict of interest or illness arose, but they are precluded from taking part in the deliberations and final decision making.
- 5.5 Since January 2016, the Appeals Panel had heard three appeals and all of these appeals related to Council Tax.

### 6. Exceptions

- 6.1 It should be noted that while employment appeals (including Disciplinary, Capability, Absence Management, Redundancy and Grievance matters) were dealt with by Members the Panel would comprise a Corporate Director (chair), a Head of Service and an elected Member and they were therefore **not** included in this proposal.
- 6.2 School Admission and Exclusion Appeals are also heard by a panel but these panels comprised independent representatives and they would also **not** be affected by this proposal.
- 6.3 Homelessness reviews are conducted in accordance with the relevant regulations, which do not give an automatic right to an oral hearing, by a Reviewing Officer who is senior to the officer involved in making the original decision and who was not involved in the original decision. There is therefore no member involvement in these appeals and they would therefore not be affected by this proposal.

### 7. Proposal

- 7.1 Under the current arrangement a substitute Member is required to stay on in the hearing in case an unexpected conflict of interest or illness arises. There has been no requirement for the substitute to replace a panel member in the recent past and this has meant that the substitute had to attend the hearing, but then had to leave when the deliberations started. Members have found this frustrating.

- 7.2 It is proposed that in order to fully involve all Appeals Panel Members in the decision making process and provide them with the opportunity to gain necessary relevant experience, the number of Members sitting on an Appeal Panel should be increased to four, but with substitutes no longer being appointed. The quorum for a Panel would still be three Members. In the event that the number of votes to refuse or approve an appeal were equal the Chairman would be required to use their casting vote and therefore a decision could always be made.
- 7.3 There would be no budgetary implication, should Members be minded to approve this recommendation, as the current requirement for a substitute to be in attendance would no longer be necessary.

## 8. Conclusion

- 8.1 Members of the Appeals Panel have been informally canvassed and they have agreed, in principle, with the proposal to increase the number of Members sitting on Appeals Panel from three to four (with no substitute required). This proposal would therefore ensure that all Members of the Panel have the opportunity to sit and gain experience at hearings without having to endure the frustration of not being involved in the final determination of a matter.