

Blackpool Council

1 March 2017

To: Councillors Mrs Callow JP, G Coleman, I Coleman, Elmes, Galley, Humphreys and Ryan

The above members are requested to attend the:

APPEALS COMMITTEE

Monday, 13 March 2017 at 10.00 am
in Committee Room B, Town Hall, Blackpool FY1 1GB

A G E N D A

ADMISSION OF THE PUBLIC TO COMMITTEE MEETINGS

The Head of Democratic Governance has marked with an asterisk (*) those items where the Committee may need to consider whether the public should be excluded from the meeting as the items are likely to disclose exempt information.

The nature of the exempt information is shown in brackets after the item.

1 DECLARATIONS OF INTEREST

Members are asked to declare any interests in the items under consideration and in doing so state:

- (1) the type of interest concerned; and
- (2) the nature of the interest concerned

If any member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

2 MINUTES OF THE LAST MEETING HELD ON 23 JANUARY 2017

(Pages 1 - 4)

To agree the minutes of the last meeting held on 23 January 2017 as a true and correct record.

* **3 HOME TO SCHOOL TRANSPORT APPEAL**

(Pages 5 - 38)

To consider an appeal lodged in connection with the provision of assistance for home to school transport.

(This item contains personal information regarding the appellant which is exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972).

4 DATE OF NEXT MEETING

To note the date of the next meeting as 8 May 2017.

Venue information:

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

Other information:

For queries regarding this agenda please contact Yvonne Burnett, Senior Democratic Services Adviser, Tel: (01253) 477034, e-mail yvonne.burnett@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at www.blackpool.gov.uk.

Present:

Councillor Ryan (in the Chair)

Councillors

Mrs Callow JP	Galley	I Coleman
G Coleman	Elmes	

In Attendance:

Mrs D Goodall, Head of Legal Services, Blackpool Council

Miss Y Burnett, Senior Democratic Governance Advisor, Blackpool Council

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 MINUTES OF THE LAST MEETING HELD ON 28 NOVEMBER 2016

Resolved: That the minutes of the meeting held on 5 September 2016 be approved and signed by the Chairman as a correct record.

3 EXCLUSION OF THE PUBLIC

Resolved: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the whole item, including the decisions referred to at Agenda items 3 and 4 on the grounds that it would involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

4 HOME TO SCHOOL TRANSPORT APPEAL

The Committee considered an appeal that had been lodged in connection with a decision taken by officers within the Special Educational Needs Department not to provide assistance with home-to-school transport.

Mr P Thompson presented the case on behalf of the Authority.

The Appellant was in attendance at the meeting and was supported by Mrs Lavelle, SEND Information, Advice and Support Service, Blackpool Council.

Also in attendance at the meeting were Mrs Goodall, Head of Legal Services and Miss Burnett, Clerk to the Committee.

MINUTES OF APPEALS COMMITTEE MEETING - MONDAY, 23 JANUARY 2017

The Committee carefully considered all the information submitted by the appellant and the Authority both in writing and verbally at the meeting.

The Committee had regard to the Council's Home to School and College Transport Policy and Section 30 of the Children and Families Act 2014 and Schedule 2(14) of the SEND Regulations 2014.

It noted the relevant factors in the Authority's case, in particular the decision to support the parental preference for her child to attend a specialist provision, despite an Educational Psychology Service assessment confirming that the child's needs could be met within a mainstream high school environment. This decision was taken as the costs would be comparable to a supported place within a mainstream school, but on the understanding that the appellant would be responsible for transportation to and from the school. Other factors considered was the existence of a commissioned vehicle to the specialist provision, but it was noted that irrespective of this, the appellant's child was not eligible for assistance as the distance to the mainstream school was less than three miles, within the specified walking distance, from the family home. The Committee noted that there was no medical evidence to support the need for transport assistance.

The Committee considered the appellant's reasons for wanting assistance with home-to-school transport costs. It was noted that the appellant believed, having obtained independent quotations, that the cost of providing assistance would be considerably lower than the £9,000 per annum quoted. The appellant's reason for not wanting the child to attend a mainstream school was because she felt her child's previous experience in the primary environment had been unsuccessful and was not confident that her child's need would be met within a mainstream school. It was noted that the appellant was of the opinion that her child was unable to use public transport unassisted and there was no extended family.

The Committee was satisfied that there was an available place at a mainstream school, which was within the specified walking distance and that it was a parental preference that the child attended a specialist provision. The Committee gave careful regard to the appellant's concerns for the welfare of the child, but was satisfied that the correct procedures had been followed.

After carefully considering all the evidence before it, the Appeals Committee was satisfied that the decision not to provide assistance with home to school transport costs was made in accordance with the Council's Home to School and College Transport Policy and the Authority had shown flexibility in supporting parental preference, but there were insufficient exceptional circumstances to override the Policy.

Resolved:

To uphold the officer's decision not to provide assistance with home to school transport costs on the grounds that the decision was made in accordance with the Council's Home to School and College Transport Policy and there were insufficient exceptional circumstances to override the Policy.

MINUTES OF APPEALS COMMITTEE MEETING - MONDAY, 23 JANUARY 2017

Background papers: Exempt

5 INTRODUCTORY TENANCY REVIEW

The Committee considered a request for an Introductory Tenancy Review from a tenant dissatisfied with a decision taken by the Council to issue a Notice of Proceedings for Possession.

Mrs S Tomlinson, Anti Social Behaviour Officer, Blackpool Coastal Housing and Ms S Hunter, Senior Legal Officer, Blackpool Council presented the case on behalf of the Authority.

Also in attendance at the meeting were Mrs Goodall, Head of Legal Services to advise the Committee on policy and procedure only and had taken no part in the original decision and Miss Burnett, Clerk to the Committee.

The appellant was in attendance, supported by a friend.

The Committee was advised that on 20 January, the appellant had sought an adjournment of the review, but due to statutory time constraints, the request could not be accommodated.

The Committee carefully considered the written representation provided by both parties, namely the Review report and the Report of PCSO Joanna Crichton. It was considered that the Notice to Terminate had been correctly served and that, on balance, the reports of anti-social behaviour contained in the chronology had occurred. The Committee noted that in the appellant's request for a review, he had disputed the allegations and claimed he was being discriminated against.

The Committee noted that Blackpool Coastal Housing had attempted to engage with the appellant to ensure that he complied with the terms of the tenancy, sending three warning letters between April 2016 and December 2016 and extending the Introductory Tenancy to provide further opportunity for the appellant to improve his conduct. The Committee was satisfied that notwithstanding those efforts the anti-social behaviour continued despite promises to change and the appellant had not engaged with support services. In addition, the Committee was advised that a signed witness statement from an employee of Electricity North West, confirmed that a piece of wire had been connected between the live terminals of the meter for purpose of obtaining electricity without payment. This action supplemented the decision to serve the Notice of Proceedings for Possession, as the appellant was the sole beneficiary and posed a serious risk to both life and property.

The Committee found that the appellant's conduct and that of his visitors had, on every alleged occasion, been anti-social and unacceptable and caused nuisance, annoyance, disturbance, alarm or distress to residents and to others near the property. The appellant acknowledged that his behaviour was due to his alcohol consumption, but he had stopping drinking, was receiving mental health and substance misuse support and was proud of what he had achieved.

MINUTES OF APPEALS COMMITTEE MEETING - MONDAY, 23 JANUARY 2017

In reaching its decision, the Committee noted the varied sources and the extent of complaints concerning the appellants' behaviour and that of his visitors, for which he was responsible. They noted also and accepted the confirmatory evidence from the police that the appellant was a high intensity user of their communication network and the impact of the appellant's behaviour on neighbours, who due to age and mental health problems were vulnerable.

The Committee found on a fact, on the balance of probabilities, that both the allegations of breaches of Clauses Six (Using the Property) and Eight (Anti Social Behaviour) of the appellants tenancy agreement were made out. In all the circumstances, the Committee was satisfied that the correct procedures had been followed and that the decision of the Council was justified and proportionate and upheld the decision.

Resolved:

That, having considered all the information, the Officers' original decision to issue a Notice of Proceedings for Possession be upheld on the grounds that the terms of the Introductory Tenancy Agreement had been significantly breached and the decision of the Committee was to uphold the decision of the Council.

Background papers: Exempt

6 DATE OF NEXT MEETING

Resolved: To note the date of the next meeting as 13 March 2017.

Chairman

(The meeting ended 1.40 pm)

Any queries regarding these minutes, please contact:
Yvonne Burnett Senior Democratic Services Adviser
Tel: (01253) 477034
E-mail: yvonne.burnett@blackpool.gov.uk

Report to:	APPEALS COMMITTEE
Relevant Officer:	Gani Martins, Interim Director of Children's Services
Date of Meeting:	13 March 2017

HOME TO SCHOOL TRANSPORT APPEAL

1.0 Purpose of the report

- 1.1 To consider an appeal lodged in connection with the provision of assistance for home to school transport.

2.0 Recommendation(s):

- 2.1 The Committee will be asked to determine the appeal.

3.0 Reasons for recommendation(s):

- 3.1 Once an application for a review has been received the application and any relevant representation must be considered by the Appeals Committee.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

There are no alternative options as the review must be considered by the Appeals Committee.

4.0 Council Priority:

- 4.1 The relevant Council Priority is "The economy: Maximising growth and opportunity across Blackpool".

5.0 Background Information

- 5.1 An appeal has been lodged against the decision made by officers not to provide assistance for home to school transport. Copies of the appeal documents are

attached at Appendix 3(a).

Does the information submitted include any exempt information?

Yes

List of Appendices

Appendix 3(a): Details of Case (Not for Publication).

6.0 Legal considerations:

6.1 The Head of Legal Services will be represented at the meeting to advise the Committee on policy and procedure only and will not have been involved with any of the decisions previously taken.

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 Details of the cost of providing transport assistance to the appellant will be provided at the meeting.

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 None

13.0 Background papers:

13.1 Exempt