

LONDON BOROUGH OF SUTTON

APPEALS COMMITTEE

MONDAY, 1 MARCH 2010



9.30 am at the

Civic Offices, St Nicholas Way, Sutton, SM1 1EA

To all members of the Appeals Committee:-

The Committee will comprise three members from the following panel.

*Councillors: Richard Bailey, Dave Callaghan, Stuart Gordon-Bullock,
Joan Hartfield, Janet Lowne, Jayne McCoy,
Pamela Picknett, Sue Stears, Graham Whitham and
Misdaq Zaidi*

*Paul Martin
Chief Executive
Civic Offices
St Nicholas Way
SUTTON
SM1 1EA*

22 February 2010

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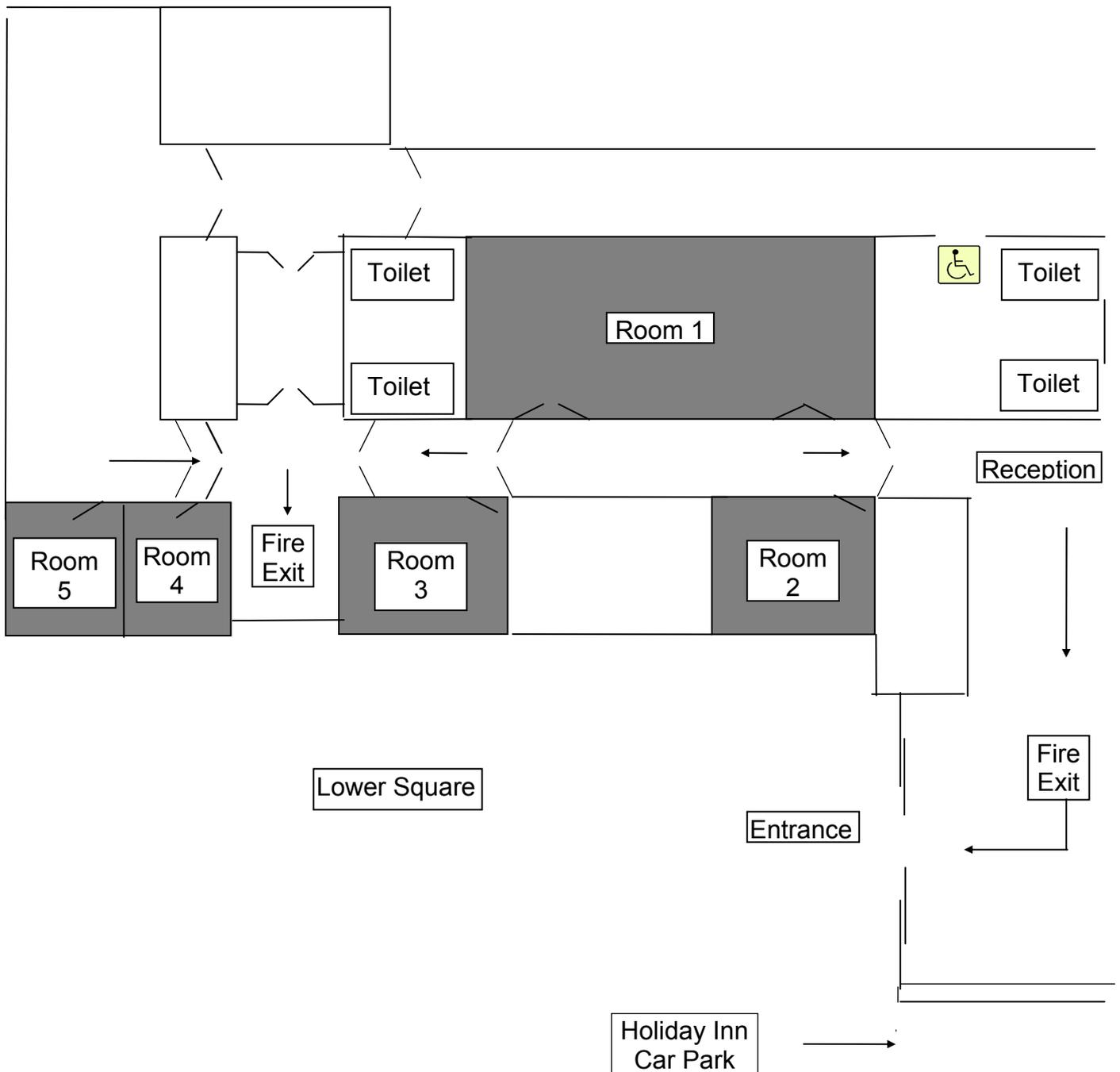
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AGENDA

1. ELECTION OF CHAIR

To elect a Chair for the meeting.

2. MINUTES (Pages 1 - 4)

of the meeting held on 20 April 2009 (ENCLOSURE).

3. EXCLUSION OF THE PRESS AND PUBLIC

To consider a motion to exclude the press and public.

4. APPEALS COMMITTEE PROCEDURE (Pages 5 - 6)

The procedure to be followed at meetings of the Appeals Committee when considering an appeal against dismissal (ENCLOSURE).

5. APPEAL AGAINST DISMISSAL - HOLDER OF POST NO. 513129 (Pages 7 - 210)

The documents submitted by the Executive Head of Learning Disabilities and the appellant (ENCLOSURE). **[A/01/10 para.1/2]**

NOTE: Where any of the above mentioned items or enclosures contain a reference within square brackets thus [/para.] this indicates that they include matter of an exempt nature by virtue of the paragraphs contained in Part 1 of Schedule 12A of the Local Government Act 1972 and it may be necessary for representatives of the press and other members of the public to be excluded from the meeting during the consideration of such items. Any exempt items on this agenda are indicated below.

<u>Item No.</u>	<u>Subject</u>	<u>Reason for Exemption</u>
5.	Appeal Against Dismissal - Holder of Post No. 513129	Information relates to an employee of the Council.

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APPEALS COMMITTEE

20 April 2009 at 9.30 am

MEMBERS: Councillors Joan Hartfield, Sue Stears and Graham Whitham.

350. ELECTION OF CHAIR

Resolved: That Councillor Sue Stears be elected Chair for the duration of the meeting.

351. MINUTES

The Minutes of the meeting held on 2 March 2009 were approved as a correct record, and signed by the Chair.

352. EXCLUSION OF THE PRESS AND PUBLIC

Resolved: That, under section 100(A)(4) of the local Government Act 1972, the press and other members of the public be excluded from the meeting during consideration of the following item of business on the ground that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act, which would not be in the public interest.

353. APPEALS COMMITTEE PROCEDURE

Resolved: To note the procedure to be followed for the hearing of appeals against dismissal under the Council's disciplinary procedure.

354. APPEAL AGAINST DISMISSAL - HOLDER OF POST NO. 342134

The Committee considered an appeal against dismissal by the holder of post No. 342134 on the ground of incapability relating to her attendance.

The management case was presented by the Executive Head of Older and Disabled People's Services, who called one witness. The appellant was present and her case was presented by her trade union representative.

The Committee considered the grounds for the appeal and the evidence submitted by both sides.

The hearing adjourned from 10:40 am until 10:55 am.

Resolved: That in view of the appellant's sickness absence record and failure to meet the requirements of the Council's sickness absence policy, the appeal be not upheld and the appellant be dismissed on the ground of incapability relating to her attendance.

The meeting ended at 12.43 pm

Chair:
Date:

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PROCEDURE FOR HEARINGS OF APPEALS AGAINST DISMISSAL

1. The appeal will be heard by the Council's Appeals Committee and advised by the Executive Head of Human Resources or their nominated representative who should have not been involved in previous disciplinary proceedings in connection with the current case.
2. An initial 'directions hearing' will be arranged to work out with both parties the appeal hearing arrangements. If there is any new information that would necessitate calling witnesses, together with dealing with any substantive procedural issues or disputes, it will be discussed within this meeting.

The directions hearing will consist of the Chair of the Appeals Committee, a representative of the Executive Head of Human Resources, the Committee Manager (Chair), the appellant (and representative) and the management representative (and adviser, if appropriate). The directions hearing will facilitate the resolution of procedural issues between the two parties, as well as identifying any witnesses to be called, and likely length of presentation of the cases.

The directions hearing would be time limited to no more than one hour for each party.

3. The appellant will be given notice in writing at least 10 working days in advance of the time and place of the appeal hearing. They may be accompanied by a trade union official or trade union representative or a work colleague. Copies of any relevant new documents will be made available 48 hours in advance of the hearing, though exceptionally could be submitted later, but prior to the hearing, on application to the Chair and at their discretion.
4. At the commencement of the hearing both sides will be given the opportunity to make a brief opening position statement.
5. The Council's representative will put the case as to why the appellant was dismissed, in the presence of the appellant (and their representative who may be a trade union official or trade union representative or a work colleague).
6. The appellant (or their representative) will have the opportunity to ask questions of the Council's representative and any witnesses whom they may call (as agreed at the directions hearing). The contents of any written

statement submitted as evidence where witnesses are not present will be open to challenge by the appellant (or their representative).

7. The members of the Appeals Committee will have the opportunity to ask questions of the Council's representative and their witnesses.
8. The appellant (or their representative) will put their case forward in the presence of the Council's representative and call such witnesses as agreed at the directions hearing.
9. The Council's representative will have the opportunity to ask questions of the appellant and their witnesses. The contents of any written statement submitted as evidence where witnesses are not present will be open to challenge by the Council's representative.
10. The Committee will have the opportunity to ask questions of the appellant and their witnesses.
11. The Council's representative and the appellant (or their trade union representative) will have the opportunity to sum up their case if they so wish.
12. The Council's representative and the appellant and their representative will withdraw.
13. The Committee and the member of Human Resources advising the Committee will deliberate in private, only recalling the Council's representative and the appellant to clear points of uncertainty. If recall is necessary both parties are to return. If the Committee decide that any information requires further investigation they may adjourn the hearing.
14. The Committee may uphold the appeal, reject the appeal, or substitute another penalty. If the appeal against dismissal is upheld without another penalty being substituted the employee will be reinstated **to their old post wherever practicable**. Also see paragraph 12.2.4 in the policy statement.
15. The Committee will confirm their decision in writing within five working days. (unless otherwise agreed between both parties and/or if additional time is required to consider any other factors).

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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