

APPEALS COMMITTEE

At a meeting of the Appeals Committee held in The Brock, Council Offices, 16 Church Street, Dumbarton on Thursday, 29 November 2018 at 9.30 a.m.

Present: Councillors Karen Conaghan, David McBride, Jonathan McColl and Brian Walker.

Attending: Victoria Rogers, Strategic Lead – People & Technology; Nigel Ettles, Principal Solicitor and Nuala Quinn-Ross, Committee Officer.

Councillor Karen Conaghan in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

EXCLUSION OF PRESS AND PUBLIC

The Committee approved the following resolution:-

“That under Section 50A(4) of the Local Government (Scotland) Act 1973, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 7A to the Act”.

PROCEDURE

The Committee agreed to note the Appeals Committee Hearings – Dismissal Appeals Process would be followed at this Hearing of Appeal.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Appeals Committee held on 29 April 2018 were submitted and approved as a correct record.

APPEAL AGAINST DISMISSAL (REF:APP/18/03)

There were submitted background papers relating to an Appeal which had been submitted to the Council in relation to a Dismissal.

The Appellant was present and represented by Mr Andy McCallion, Unison. Mr Peter Hessest, Strategic Lead – Regulatory, was in attendance to present the case on behalf of Management. Miss Geraldine Lyden, HR Business Partner, was in attendance as an Adviser to Mr Hessest.

Mr McCallion requested that the Committee agreed to accept eight photographs which had been taken, as additional supporting information.

The photographs were distributed to all those present. Thereafter, having considered the photographs in private and given management the opportunity to review the photographs and present their view, the Committee agreed that the photographs could be included as part of the hearing.

Mr Hessest presented the case for Management and called RL, IMcK, EG and PC as witnesses. RL, IMcK, EG and PC were heard in answer to questions from Mr Hessest, the Appellant and Mr McCallion and Members of the Committee.

ADJOURNMENT

Thereafter the Committee agreed to adjourn this appeal until Tuesday, 4 December 2018.

The meeting adjourned at 5.10 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in The Brock, Council Offices, 16 Church Street, Dumbarton on Tuesday, 4 December 2018 at 9.43 a.m. The same Elected Members were present. Mr Ettles and Mrs Rogers were again in attendance, with Mr Stewart substituting for Ms Quinn-Ross, and Councillor Conaghan was again in the Chair.

After hearing Councillor Conaghan, Chair, Mr Hessest continued with the case for Management, and the Appellant and Mr McCallion took the opportunity to ask various questions of Mr Hessest. Members also asked a number of questions at this point.

ADJOURNMENT

After hearing Councillor Conaghan, Chair, the Committee agreed to adjourn for a short comfort break. The meeting resumed at 11.10 a.m. with the same Members present as listed in the sederunt.

The Appellant then presented his case, and was assisted by Mr McCallion.

ADJOURNMENT

At this point in the meeting, Councillor Conaghan, Chair, adjourned the meeting to allow a Member to attend a private appointment. The meeting reconvened at 1.27 p.m with the same Members present as listed in the sederunt.

Mr McCallion continued with the case for the Appellant and took him through his evidence to Committee. Mr Hessematt took the opportunity to ask some questions of the Appellant. Members also asked a number of questions of the Appellant.

ADJOURNMENT

After hearing Councillor Conaghan, Chair, the Committee agreed to adjourn for a short comfort break. The meeting resumed at 3.02 p.m. with the same Members present as listed in the sederunt.

Mr Hessematt and then Mr McCallion summed up their respective cases and thereafter both parties withdrew from the meeting.

After the Committee had deliberated the matter in private, both parties were re-admitted to the meeting and advised that the grounds of the appeal had been substantiated in part and upheld the appeal to the extent that a finding of misconduct had now replaced the finding of gross misconduct. As the misconduct took place when the Appellant was subject to a final written warning, the decision of the Committee was that the Appellant remained dismissed.

The meeting closed at 3.57 p.m.