

WEST DUNBARTONSHIRE COUNCIL**Report by the Chief Executive****Council Meeting : 13 January 2009**

Subject: Appeals Committee 14 August 2008 – Requisition Motion**1. Purpose****1.1 The Requisition Motion is in two parts:-**

- i) To instruct officers to fully implement the decision of the Appeals Committee, by issuing a new decision letter which differs from the original decision of the Committee. It also seeks a report to Council on why, despite repeated attempts by the Acting Chair of the Committee, the decision has not been fully implemented, and
- ii) To report to the February Council on why a report requested by the Appeals Committee regarding the actions taken by the Director of Social Work and Health has not been forthcoming.

1.2 This report aims to:-

- i) Detail the factual situation to ensure that all Members are aware of this prior to making a decision.
- ii) Report on why the decision has not been “fully implemented” in accordance with the wishes of the Acting Chair of the Committee and on the situation with the report, thus answering the second part of the Motion.
- iii) Identify a number of breaches of good practice, procedure and propriety which should be considered by Council.

2. Background**2.1 The facts and timeline surrounding this matter are as follows.****2.2** On 14 August 2008 the Appeals Committee considered a grievance lodged by Peter O'Neill, a Welfare Rights Officer. Mr O'Neill was represented by Tom Morrison, a Unison Representative and Welfare Rights Officer. While the Council cannot re-open or reconsider this case it is evident from the papers provided to the Appeals Committee that this is one of a number of long standing complaints and grievances regarding the Welfare Rights Team. These have included grievances and complaints both by and against Mr O'Neill and indeed against Mr Morrison, as well as complaints between unions.

- 2.3** The terms of Mr O'Neill's grievance are contained in Appendix 1, which is the Appendix 1, page 6, referred to in the Emergency Motion. It should be noted that while Mr O'Neill's grievance stated at two points that the Council had broken his contract of employment, no evidence of this was submitted to the Appeal Committee, no submissions to this effect were made and at no time did the Committee discuss this.
- 2.4** The procedure regarding decisions of the Appeals Committee is set out in paragraph 5.15 of the Appeals Committee Procedures and states:-
- "5.15 – The Appeals Panel will recall the department's representative, the Appellant and his/her representative and announce their findings and recommendations which will be confirmed in writing to both sides in the case."*
- 2.5** As is standard practice, the terms of the decision were agreed by the Committee in private with the Clerk present. The decision was then read out to the Appellant. This decision, as read out to the parties and recorded by the Clerk, is the decision of the Committee. The minute of the meeting (Appendix 2) and the decision letter issued on 15 August 2008 (Appendix 3) detail the exact terms of this decision. Examination of the Clerk's handwritten notes of the Appeal and discussions with him have confirmed that the minute and letter of 15 August 2008 are identical to the Committee's decision as read out by the Acting Chair of 14 August 2008.
- 2.6** Following intimation of the decision, Tom Morrison lobbied a Member or Members of the Committee to have the decision letter expanded. The Acting Chair, Councillor Ronnie McColl, approached the Clerk and the Chair requesting that this was done. The Chair agreed that a further letter should be sent and the letter was to be drafted by the Clerk in consultation with the Acting Chair. Following further approaches by Councillor McColl to the Manager of Legal Services and Head of Legal Administrative and Regulatory Services, on 17 November 2008, the draft letter clarifying the decision was forwarded by the Clerk to Councillor Ronnie McColl for his approval. On 18 November, the Clerk spoke to Councillor McColl who advised that the draft looked fine and requested that it be posted to Mr O'Neill and emailed to Tom Morrison. The clarification letter is Appendix 4 to these papers.
- 2.7** On receipt of this letter Tom Morrison lobbied Councillor Ronnie McColl to have the decision letter changed. He gave Councillor McColl a style of decision letter (Appendix 5) which he wished to be issued on behalf on the Council. Councillor Ronnie McColl approached the Head of Legal Administrative and Regulatory Services regarding the matter. The Head of Legal Administrative and Regulatory Services advised Councillor McColl on 28 November 2008 that he had serious concerns about the aims and propriety of the letter. Following further discussions between Councillor McColl and the Head of Legal Administrative and Regulatory Services regarding possible options, Councillor McColl approached the Chief Executive. Thereafter the Chief Executive and Head of Legal Administrative and Regulatory Services advised Councillor McColl that they thought it was improper to alter the decision letter of the Appeals Committee, by issuing the requested letter.

3. Main Issues

3.1 The first main issue is whether it is proper that a new decision letter is sent out. The Motion seeks to “instruct officer to fully implement the decision of the Appeals Committee in August including sending a letter stating:-

- i) The grievance category.
- ii) All parts of the details of the grievance listed in Appendix 1 on page 6 of the Appeals Committee papers (Appendix 1 here also).
- iii) All contents of the letter sent to the Appellant, dated 15 August 2008.”

3.2 There are a number of serious concerns regarding this part of the Motion, which are as follows:-

- The effect of the first part of the Motion is to require a new decision letter, which differs from the original decision letter of 15 August, differs from the minuted decision and differs from the decision as read out to the parties on the day of the appeal. The minute and decision letter of 15 August reflect the exact terms of the decision read out to the parties and are therefore accurate. The decision letter is entirely clear in its terms. Accordingly there is no legal basis for changing the decision letter and by implication changing the minute of the Committee decision.
- To include “all parts of the details of the grievance listed in Appendix 1” in a new decision letter may appear innocuous. However this is not the case. In particular, at two points in Appendix 1 the Appellant claims that the Council has broken his contract of employment. No evidence was led at the Appeal Committee as to this and it formed no part of the Appeal Committee’s discussions. There was good reason for this. In coming to a decision whether an employee’s contract of employment has been broken an Employment Tribunal would have to look at the Council’s whole actions including those of the Appeals Committee. In other words, the actions of the Appeals Committee and future actions taken on it are part of the total facts that a Tribunal would have to consider in determining whether the contract has been breached. In these circumstances a decision letter should not include findings relating to matters which were not the subject of evidence to the Appeals Committee, nor considered by it, particularly on something so fundamental as to whether an employee’s contract of employment has been broken.
- The issue of a representative of one of the parties lobbying Committee Members directly to seek changes to a decision letter is a particularly serious issue. In order to underpin the principles of natural justice (the parties should have a fair hearing and that hearings are free from bias) it is critical that there is a clear separation maintained between the Appeals Committee and parties to the Appeal. In this case a trade union representative has lobbied Members of the Appeals Committee on at least two occasions following issue of the decision letter and has gone as far as

preparing a style of decision letter (Appendix 5) which he requested be issued. It is essential that parties are treated fairly and equally. If roles were reversed and an officer who was involved in presenting management's case at the Appeal Committee lobbied the Chair to change the decision and prepared a draft decision letter then the Council would undoubtedly be exposed to accusations of a failure to adhere to the requirements of natural justice. This would then have further repercussions if the case was presented to an Employment Tribunal. It is essential therefore that the Chair and Members of the Committee do not expose themselves to allegations of procedural unfairness as this can only undermine the integrity of the appeals process. Such informal approaches outwith the formal appeal process also have potential to breach the key principle of openness contained at paragraph 2.1 of the Councillor's Code of Conduct. Members will also recall that Audit Scotland previously criticised the Council for its decision making not being open and transparent.

- There are also a number of serious concerns as to the aims of Mr Morrison in seeking a new decision letter. These are:-
 - i) The proposed finding that the Council has broken Mr O'Neill's contract of employment. It appears that potentially this could set the Council up for an Employment Tribunal claim of constructive dismissal.
 - ii) It should also be noted that the draft letter prepared by Mr Morrison is wider than the terms of either the grievance or the Appeals Committee decision. In particular the Appeal Committee found that the Chief Executive should investigate the failure of the Executive Director of Social Work and Health to investigate fully accusations of bullying and harassment. Mr Morrison's letter asks that the Chief Executive should investigate the failure of the Director of Social Work and Health to tackle bullying, harassment, exclusion and discrimination against Mr O'Neill. This tries to introduce a finding of bullying, harassment and exclusion against Mr O'Neill, which is not in the original Committee decision. Again it appears to be a setup for tribunal proceedings.
 - iii) It should also be noted that the Committee's decision was not limited to allegations against Mr O'Neill. The Committee's decision in reflecting the background of complaints and grievances in the Welfare Rights Unit, refers to and investigation of accusations of bullying and harassment (not all of which have been by Mr O'Neill). Mr Morrison's letter changes this to bullying, harassment, exclusion and discrimination against Mr O'Neill. It is evident from the papers submitted to the Appeals Committee as well as previous grievances dealt with by the Appeals Committee that Mr Morrison (who is also Welfare Rights Officer) has been the subject of complaints. Mr Morrison's letter effectively seeks to exclude himself and others

from the ambit of any such wider investigation. This demonstrates a personal interest as well as a potential conflict of interest.

- iv) Mr Morrison has raised his own grievance, parts of which are not dissimilar to that of Mr O'Neill's appeal. Stage 2 of this was heard on 22 October 2008 and a Stage 3 appeal was lodged on 23 December 2008. Alteration of the Appeals Committee's decision letter in the terms requested by Mr Morrison has potential to assist his appeal. While it is premature to discuss the details of Mr Morrison's grievance appeal in advance of the Appeals Committee's consideration of it, Members need to be aware that Mr Morrison had a personal interest (and potential conflict of interest) in seeking changes to the decision letter.

For the sake of clarity it should be pointed out that the Motion does not seek Mr Morrison's letter to be substituted for the decision letter. Nor did the Acting Chair ask officers to do this. However, the Motion requests a new decision letter which differs from Mr Morrison's letter only in respect of the last line of 5(e) in Mr Morrison's letter (these are the issues raised in (ii) and (iii) above). Accordingly only the concerns detailed in (i) and (iv) relate to the Motion.

- The Council has agreed proper processes for dealing with grievances and appeals and these have been agreed with the Unions. These processes should not be subverted by:-
 - a) Parties or their representatives approaching Members by the back door to get a decision letter changed or;
 - b) Members putting pressure on Officers to change the terms of a decision letter which accurately reflects the minute and decision made at Committee and which is clear in its terms.
- If Unions have concerns regarding the general terms of decision letters then the proper process is that these are raised at the Joint Consultative Forum (JCF). In terms of paragraph 8.7 of the Protocol for Member/Officer Relations the remit of this forum is:-

To provide a channel for consultation between the Council and the Unions:

- a) To discuss significant changes to the Council affecting the welfare or conditions of employment of its employees;
- b) To consider any employment matter referred to them by the staff side or the Council.

Paragraph 8.8 and 8.9 go on to state:-

"8.8 – This forum does not have a remit to become involved in matters affecting an individual employee's terms, conditions and pay and Members must observe this remit in their contacts with Trade Union officials".

"8.9 – Members must at all times adopt a professional approach in their dealings with the Trade Unions and in particular should:-

- Avoid giving unauthorised commitments;
- Take a balanced view of information provided by Trade Unions along with that of Officers;
- Not allow undue influence to be placed upon themselves."

An issue relating to the volume of information contained in decision letters, was raised at the JCF on 4 December 2008. This, not the present Motion, is the proper forum for dealing with any such general issue. However for the avoidance of doubt it should be noted that the JCF's decision to include details of grievances in decision letters has no effect on the present case as (i) the JCF has no delegated authority and its recommendations require approval by Council, (ii) the JCF has no remit in individual cases, (iii) the JCF's recommendations are not retrospective. They cannot add something into a previous decision which did not form part of that decision. If the JCF's decision is approved by Council then the effect would be that the Appeals Committee will have to consider each line of a grievance and determine which parts of the grievance it upholds. This did not happen in the present grievance appeal, and indeed the issue of "breach of contract" was neither raised in evidence nor submissions. As such the Appeals Committee would not have been in a position to uphold this particular part of the grievance.

- While the decision letter of 15 August 2008 is entirely clear, following approaches by the Acting Chair of the Appeals Committee a further clarification letter was sent on 18 November. The terms of this were checked with the Acting Chair who indicated that he was happy with it. It is unclear what has changed this position, other than further approaches directly by Mr Morrison.

3.3 The second part of the emergency motion seeks an independent report on:-
 "Why despite repeated attempts by the Acting Chair of the Committee it has taken over 4 months on this motion to get a Committee decision fully implemented".

The Acting Chair's attempts to implement the decision were to request expansion and changes to the decision letter. These attempts to get the decision fully implemented are detailed in Section 2 of the report. The following points are worth making.

- The Acting Chair agreed the terms of the decision at the Appeal Committee and read out the decision to parties. That is the decision which was then repeated in the minute and decision letter.
- Following approaches by the Union Representative, the Acting Chair requested that a clarification letter was sent out. The terms of this were checked with the Acting Chair and he agreed them. The letter was sent out on 18 November 2008.
- Following further approaches by the Union Representatives, the Acting Chair asked that the decision letter be further expanded and clarified. He provided a copy of a letter drafted by Tom Morrison as an example of the terms of a letter that would satisfy the Unions. As detailed in paragraph 3.2 there are serious concerns as to the propriety of Mr Morrison's actions.
- No individual member has any authority to require that a Committee decision is changed. This role cannot be delegated to an individual member.
- In terms of paragraph 5.5 to 5.7 of the Member/Officer Protocol agreed by Council in August 2007 members should not put pressure on Officers to change such a decision. This is particularly so where the decision reflects the terms of a minute, which in turn reflects the exact terms of the decision stated at the Appeal Committee.

3.4 The Committee decision also contained the following recommendation:-

"2(a) – The Chief Executive should investigate this discrimination against Mr O'Neill and the failure of the Executive Director of Social Work and Health to investigate fully accusations of bullying and harassment:-

2(b) – The Chief Executives findings are to be distributed to members of the Appeals Committee for information".

The Emergency motion seeks an independent report to a full Council meeting no later than February on:-

"Why the report requested with regards to the actions taken by the Executive Director of Social Work and Health has not been forthcoming".

This section of the report attempts to update members why this report has not been forthcoming.

While the Appeals Committee's decision can and will be taken forward there are several reasons why this has not been dealt with as quickly as Members and Officers might have wished. These are:-

- If the investigation identifies a failure of the Executive Director of Social Work and health, any disciplinary action is for the Chief Executive to take. In line with the Councils disciplinary procedure the Investigating Officer

should not be the same as the disciplinary officer. Accordingly the Chief Executive should not undertake the investigation if there is any chance of this ending up as a disciplinary matter. Therefore the Chief Executive needs to delegate the investigation to another officer or independent party. For this reason the Head of HR wrote to the Chief Executive on 2 September recommending that an independent party should prepare the report, and this was subsequently agreed.

- As mentioned at the start of this report, this particular grievance is only one of a number of long running complaints and grievances relating to the Welfare Rights Unit. There have been complaints by and against the same staff and inter Union complaints. Inevitably any investigation of the failure of the Director to investigate fully accusations of bullying and harassment will be led into consideration of this overall context. In considering whether the actions of the Director were appropriate the O'Neill grievance cannot therefore be considered in isolation.
- Members will recall that shortly after the Appeals Committee, the Chief Executive suffered a heart attack and was absent on sick leave. During this period the Executive Director of Social Work and Health headed the Corporate Management Team. Clearly it would have been inappropriate for him to pursue the matter.
- Given the complexity of the issues, the number of cross related grievances and the involvement of the Trade Unions (Mr O'Neill is also a Trade Union Steward) it was thought preferable to use ACAS rather than any other independent party. ACAS were approached to support the investigation, but unfortunately the person identified was not available at the time. Recent discussions which took place prior to the lodging of the emergency motion resulted in a meeting to take the investigation forward being scheduled for the first week in January.
- It should also be borne in mind issues of discipline are for officers to investigate. Members should only deal with discipline if a disciplinary appeal comes to them as an Appeals Committee. This is detailed in paragraph 8.6 of the Member/Officer Protocol which states that:-

"In other circumstances (i.e. out with the Appeal Committee) however, Members must not become involved in the management of the Council employees and all other disciplinary capability or grievance processes of officer based decisions. Members must not engage in activities which might undermine the management lines of responsibility or adherence to Council personnel procedures". While it is perfectly appropriate for the Council to ask for an update on progress of the investigation, it is important that Members do not discuss the details of this, lest this contaminate the fairness of any subsequent disciplinary procedures.

- 3.5** Neither the Acting Chair nor the Motion specifically request information on the implementation of the four points detailed in the Committee's decision. However, for the sake of completeness, the present position is:

1. Mr O'Neill should remain on all relevant email distribution lists – this was in place prior to the Appeal Hearing.
2. Mr O'Neill should have access to all relevant websites – there have been difficulties in accessing the RightsNet Site, but these apply to all the Welfare Rights Team. As such Mr O'Neill is not being treated differently. Attempts will continue to resolve these problems.
3. He should be able to communicate electronically with other Welfare Rights Officers – this facility is in place.
4. He should have access to the same training opportunities as other Welfare Rights Officers – Mr O'Neill has attended Employment and Support Allowance training with other members of the Team and will continue to be invited to and advised of any relevant training. Along with other staff, Mr O'Neill was also sent details of Money Advice Scotland training courses, to allow him to develop his skills and knowledge in this area.

With the exception of the RightsNet problem, any specific issues raised with management by Mr O'Neill or Mr Morrison in relation to these matters have been addressed.

4. Personnel Issues

- 4.1 There are serious personnel issues raised in this report, which are fully discussed in the report.

5. Financial Implications

- 5.1 The emergency motion seeks a decision which states that the Council has broken Mr O'Neill's contract of employment. As previously detailed, this is not the case for 2 reasons:-

- a) It was never argued at the Appeal Committee and no evidence was submitted on this matter.
- b) As a matter of law it is wrong as the Appeal Committee is part of the Council and its decisions and actions taken following it are matters to be taken into account in any finding of whether the Council has breached an employee's contract of employment. However if such a finding was to be made by the Council then this would undoubtedly form a key component of a claim for constructive dismissal to an Employment Tribunal. It should be noted that employees can now claim constructive dismissal without resigning, effectively being a claim for damages. Accordingly if the emergency motion is agreed then it will expose the Council to a financial claim.

6. Risk Analysis

- 6.1** This report raises a number of key risks being:-
- 6.2** Risk of financial loss to the Council.
- 6.3** If it is accepted that it is appropriate that Appellants or their representatives should approach Members of the Appeals Committee to seek changes to a decision, and that it is appropriate for a Member to put pressure on officers to change such a decision, then this has risks in terms of subverting proper personnel procedures, transparency and openness of Council decisions and breach of the Council's Member/Officer Protocol.
- 6.4** It should also be borne in mind that Audit Scotland have criticised the Council for the transparency and openness of its decisions and will revisit the Council in 2009. While the Council has made extensive progress to address the issues raised in the Audit Scotland report, the fact that this issue has been raised at Council, and the fact that it has been necessary to frame a report in these terms, is a backward step in terms of the Council's overall improvement objectives.

7. Conclusion

- 7.1** There are a number of significant concerns regarding the propriety of a union representative approaching the Chair of the Appeals Committee to request that the Appeals Committee's decision letter is changed. There are also significant concerns in the Acting Chair of the Committee putting pressure on officers to alter the terms of that decision letter, particularly where the decision letter reflects the accurate minute and is clear in its terms. Such actions have the potential to undermine the independence and integrity of the appeal process.

8. Recommendation

- 8.1** It is recommended that the Council take no action other than noting that the Chief Executive will not be personally involved in investigating any discrimination against Mr O'Neill and the failure of the Executive Director of Social Work and Health to investigate fully accusations of bullying and harassment.

David McMillan
Chief Executive
Date: 7 January 2009

- Person to Contact:** Andrew A Fraser, Head of Legal, Administrative and Regulatory Services, Council Offices, Garshake Road, Dumbarton, G82 3PU. Telephone 01389 737800
e-mail: andrew.fraser@west-dunbarton.gov.uk
- Appendices:** Appendix 1 – Details of Grievance (Appendix 1, page 6 of the Appeals Committee papers of 14 August 2008)
Appendix 2 – Minute of Appeals Committee of 14 August 2008
Appendix 3 – Decision letter date 15 August 2008
Appendix 4 – Letter clarifying decision dated 18 November 2008
Appendix 5 – Decision letter drafted by Tom Morrison (undated)
- Background Papers:** Appeals Committee of 14 August 2008 papers
Councillors Code of Conduct
Member/Officer Protocol, approved August 2007
- Wards Affected:** All

DETAILS OF GRIEVANCE/COMPLAINT/CONCERN
Since March 2004 I have not received the same consideration as other members of the Welfare Rights Team in the following areas and have therefore been discriminated against, breaking my contract of employment
1. I have not been given the same training opportunities as other Welfare Rights staff.
2. I have been excluded from being part of the Welfare Rights collective framework.
3. Management of the Welfare Rights Unit have failed to provide me with relevant materials and information given to other Welfare Rights Officers to do their job effectively. They have
Have broken my contract of employment and failed to treat me with dignity and respect.
 In the attachment enclosed dated 05/08/2005, Alex Thomson (Corporate Personnel) put forward proposals after discussion with Bill Clark as a sustainable solution. This was never acted upon. Why?
In the attachment enclosed of 22/06/2006, Andrea Gibson, (Corporate Personnel), outlined proposals and agreed actions with Bill Clark to bring about a sustainable solution. Once again these proposals and actions were never acted on. Why?
Throughout this period I have been a Unison activist and feel this has been relevant to the way I have been treated.
For all the above reasons I feel that I have been bullied, harassed and discriminated against by the Welfare Rights Management and despite agreeing to solutions posed by Personnel, the Director has failed to implement the solutions thereby allowing the mistreatment of me to continue.

STAGE 1:			
Date Stage 1 Raised	11/04/2007	Name of Manager Raised with:	Shona Millar
What answer was provided at Stage 1:			
No response. Line Manager feels unable to deal with Grievance. Stage 2 Grievance forwarded to Departmental Director on 19/04/2007.			
Equal Opportunities Monitoring Form attached.			

STAGE 2:			
Date Stage 2 Submitted	19/04/2007	Date of Stage 2 Hearing	
What answer was provided at Stage 2			
Failure by the Director to meet timescales to respond to the grievance.			
Failure to set up a meeting to discuss the matter.			
See letters from T Rainey dated 1 st and 21 st May regarding non-response to S2 grievance.			

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Thursday 14 August 2008 at 9.30 a.m.

Present: Councillors James Bollan, Jim Brown, Jim Finn, Ronnie McColl and Jonathan McColl.

Attending: Nigel Ettles, Principal Solicitor.

Apology: An Apology for absence was intimated on behalf of Councillor George Black.

APPOINTMENT OF CHAIR

In the absence of the Chair, Councillor Black, it was agreed that the meeting be chaired by Councillor Ronnie McColl. Accordingly, Councillor McColl assumed the Chair.

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".

**GRIEVANCE APPEAL
(REF: APP/07/10)**

There were submitted background papers relating to an Appeal which had been submitted to the Council in relation to a grievance. There was also submitted a Note of the procedure to be followed at the Hearing of the Appeal.

The Appellant was present and was represented by Tom Morrison of Unison. The department in which the Appellant was employed was represented by Raymond Lynch, Solicitor.

Mr Morrison presented the case for the Appellant. Mr Morrison and the Appellant were then questioned by Mr Lynch and Members of the Committee.

Mr Lynch called as a witness Bill Clark, Executive Director of Social Work & Health. Mr Clark was questioned by Mr Lynch, Mr Morrison and Members of the Committee.

Mr Lynch and then Mr Morrison 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 Appeal had been upheld and the findings of the Committee were as follows:-

- (1) The Appellant should have access to the same training and information as other Welfare Rights Officers, specifically:-
 - (a) He should remain on all relevant e-mail distribution lists.
 - (b) He should have access to all relevant websites.
 - (c) He should be able to communicate electronically with other Welfare Rights Officers.
 - (d) He should have access to the same training opportunities as other Welfare Rights Officers.
- (2)
 - (a) The Chief Executive should investigate this discrimination against the Appellant and the failure of the Executive Director of Social Work & Health to investigate fully accusations of bullying and harassment.
 - (b) The Chief Executive's findings are to be distributed to Members of the Committee for information.

The meeting closed at 11.50 a.m.

Joyce White FCMA
Executive Director of Corporate Services

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Andrew A. Fraser LL.B, Dip.L.P.
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E-mail: andrew.fraser@west-dunbarton.gov.uk

Our Ref: NWE
Date: 15 August 2008

If telephoning please ask for: Nigel Ettles - Direct Line: 01389 737820



*West
Dunbartonshire
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Mr Tom Morrison
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PRIVATE AND CONFIDENTIAL

Dear Sir

**APPEALS COMMITTEE
GRIEVANCE APPEAL
PETER O'NEILL**

I refer to the Hearing before the Appeals Committee on 14 August 2008 and confirm that the Committee upheld the Appeal and found that:-

1. Mr O'Neill should have access to the same training and information as other Welfare Rights Officers, specifically:-
 - (a) He should remain on all relevant e-mail distribution lists;
 - (b) He should have access to all relevant websites;
 - (c) He should be able to communicate electronically with other Welfare Rights Officers;
 - (d) He should have access to the same training opportunities as other Welfare Rights Officers.
2.
 - (a) The Chief Executive should investigate this discrimination against Mr O'Neill and the failure of the Executive Director of Social Work and Health to investigate fully accusations of bullying and harassment;
 - (b) The Chief Executive's findings are to be distributed to Members of the Appeals Committee for information.

Yours faithfully

Nigel W Ettles
Principal Solicitor

West Dunbartonshire ~

to the shores of the Clyde



Our Ref: NWE

Your Ref:

Date: 18 November 2008

If telephoning please ask for: Nigel Ettles - Direct Line (01389) 737820

PRIVATE AND CONFIDENTIAL

Mr Peter O'Neill
24 Kestrel Court
Hardgate
Clydebank
G81 4BH

Dear Sir

**APPEALS COMMITTEE
GRIEVANCE APPEAL**

With reference to my letter dated 15 August 2008, I understand that you are seeking clarification of the extent to which the Committee found the Grievance to be justified.

The Committee found that since March 2004 you had been treated less favourably than other members of the Welfare Rights Team in respect that:-

- 1) You were not given the same training opportunities as other Welfare Rights staff.
- 2) You were excluded from being part of the Welfare Rights collective framework.
- 3) Management of the Welfare Rights Unit failed to provide you with relevant materials and information given to other Welfare Rights Officers to allow them to do their job effectively.

The Committee also found that Management had failed to implement proposals put forward by Personnel and had thereby allowed the less favourable treatment to continue.

Yours faithfully

Nigel Ettles
Principal Solicitor

Private and Confidential

I refer to the Hearing before the Appeals Committee on 14th August 2008 and confirm that the Committee unanimously upheld the Appeal in its entirety.

The Committee found that, as per the grounds stated in the Grievance, since March 2004 Peter O'Neill had been treated less favourably than other members of the Welfare Rights Team. He was therefore discriminated against, breaking his contract of employment. The Appeal found that:-

- 1 He was not given the same training opportunities as other Welfare Rights Officers.
- 2 He was excluded from being part of the Welfare Rights collective framework.
- 3 Management of the Welfare Rights Unit failed to provide him with relevant materials and information given to other Welfare Rights Officers which allowed them to do their job effectively. Management broke Peter O'Neill's contract of employment and failed to treat him with dignity and respect.
- 4 The Committee also found that Management had failed to implement proposals put forward by Personnel and had thereby allowed the less favourable treatment to continue: specifically:-
- 5 Peter O'Neill:-
 - a) should remain on all relevant e-mail distribution lists;
 - b) should have access to all relevant websites;
 - c) should be able to communicate with other Welfare Rights Officers and Staff.
 - d) should have access to the same training opportunities as other Welfare Rights Officers.
 - e) The Chief Executive should investigate the failure of the Executive Director of Social Work and Health to tackle the Bullying, Harassment, Exclusion and Discrimination against Mr O'Neill.
 - f) The Chief Executive's findings are to be distributed to Members of the Appeals Committee for information.