

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Thursday, 12 June 2014 at 9.35 a.m.

Present: Councillors Jim Brown, Tommy Rainey and Kath Ryall.

Attending: Paul McGowan, HR & Workforce Development Manager; Nigel Ettles, Principal Solicitor and Nuala Quinn-Ross, Committee Officer, Legal, Democratic and Regulatory Services.

Apologies: An apology for absence was intimated on behalf of Councillor Hazel Sorrell.

Councillor Tommy Rainey 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”.

GRIEVANCE APPEAL (REF: APP/14/03)

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 in attendance and was represented by Charlie McDonald of Unite the Union. Ian Bain, Greenspace Manager, was in attendance to present the case for management. Anne-Marie Cosh, HR Business Partner, was in attendance as an Adviser to Mr Bain.

Prior to commencing the hearing, Councillor Rainey confirmed with both parties that they had no objections to Mr James Docherty, Trades Union Representative of Unite the Union, being in attendance as an observer. Both parties confirmed that they had no objections.

Mr McDonald and the Appellant presented their case and were both questioned by Mr Bain and Members of the Committee.

Mr Bain presented the case for Management. Mr Bain was questioned by Members of the Committee and Mr McDonald.

Mr Bain and then Mr McDonald and the Appellant 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 Committee had found that the grievance was not justified and the appeal had not been upheld. The Committee had found that any implied term of the Appellant's Contract of Employment arising out of a verbal agreement would have ceased to apply in 2011 on the termination of that Contract of Employment. As there could be no entitlement to be paid overtime after the termination of the Contract of Employment, there could be no entitlement to pay protection when payment of overtime ceased. The payment of overtime after the appellant entered into a new Contract of Employment in 2011 was made in error. However, the Council would not seek to recover the overpayment.

The meeting closed at 11.17 a.m.