

APPEALS COMMITTEE

At a meeting of the Appeals Committee held in Meeting Room 2, Council Offices, Garshake Road, Dumbarton on Thursday, 27 October 2011 at 9.30 a.m.

Present: Councillors George Black, Jim Brown, Jonathan McColl and Ronnie McColl.

Attending: Nigel Ettles, Principal Solicitor, and Linda McAlister, Section Head, Employment Policy and Practice.

Apologies: Apologies for absence were intimated on behalf of Councillors Jim Bolland and Martin Rooney.

Councillor George Black 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 items of business on the grounds that they may involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 7A to the Act”.

MINUTES OF PREVIOUS MEETINGS

The Minutes of Meetings of the Committee held on 18 January 2011, 10 March 2011, 17 March 2011 (Ref: APP/09/01) and 17 March 2011 (Ref: APP/09/03) were submitted and approved as correct records.

It was agreed that in future the names of witnesses would not be included in the Minutes.

**APPEAL AGAINST DISMISSAL
(REF: APP/10/16)**

There were submitted background papers relating to an Appeal which had been submitted to the Council in relation to a dismissal. 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 Charlie McDonald of Unite. Management was represented by Raymond Lynch, Solicitor.

Mr Lynch called as witnesses J.McG. and J.W. The witnesses were questioned by Mr Lynch, Mr McDonald and members of the Committee.

Mr McDonald and the Appellant presented the case for the Appellant. The Appellant was then questioned by Mr Lynch and members of the Committee.

Mr Lynch and then Mr McDonald summed up their respective cases and thereafter both parties withdrew from the meeting. At the request of the Committee, Ms McAlister remained at the meeting.

After the Committee had deliberated the matter in private, both parties were re-admitted to the meeting and advised that the Committee wished to make it clear that they believed that Management had acted entirely appropriately in the circumstances and with the information that was before them. The Committee's decision should therefore not be construed as a criticism of the disciplining officer.

The decision of the Committee was that the grounds of the Appeal had been substantiated in part and the Appeal had been upheld to the extent that:-

1. The Appellant was to be reinstated as a Residential Worker with effect from the date of the dismissal. The period between the date of the dismissal and 27 October 2011 was to be treated as a period of unpaid suspension.
2. The Appellant was to be subject to a final written warning with effect from 27 October 2011. The final written warning would expire after a period of 24 months, subject to satisfactory conduct. The duration of the final written warning had been extended beyond the usual period of 12 months because of the exceptional circumstances.
3. Management would decide when and where the Appellant would return to work. Management would carefully consider whether or not it was appropriate that the Appellant return to work in the unit in which he had been working prior to the dismissal.

The Committee's decision was subject to the Appellant retaining his SSSC Registration. If the Appellant did not retain his SSSC Registration, the Committee's decision would no longer be able to be implemented. In that event, the matter would be put to the Committee for a further decision in the light of the new circumstances.

The meeting closed at 1.33 p.m.