

Agenda

Appeals Committee

Date: Thursday, 20 April 2017

Time: 09:30

Venue: Committee Room 2,
Council Offices, Garshake Road, Dumbarton

Contact: Nuala Quinn-Ross, Committee Officer
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Dear Member

With reference to the agenda for the above Meeting of the Appeals Committee issued separately today, please find attached papers in respect of Agenda Item 4 – Minutes of Previous Meetings (pages 3 - 10).

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:-

Councillor Jim Brown
Councillor John Mooney
Councillor Tommy Rainey (Chair)
Councillor Hazel Sorrell

Vicki Roger, Strategic Lead - People
& Technology
Nigel Ettles, Principal Solicitor
Darren Paterson, Strategic HR Manager

Date issued: 5 April 2017

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Monday, 31 October 2016 at 9.35 a.m.

Present: Councillors Jonathan McColl, John Mooney and Kath Ryall.

Attending: Vicki Rogers, Strategic Lead – People & Technology; Nigel Ettles, Section Head - Litigation and George Hawthorn, Manager of Administrative and Democratic Services.

Apology: An apology for absence was intimated on behalf of Councillor John Millar.

Councillor Kath Ryall 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 Against Disciplinary Action and Non-Disciplinary Dismissal Procedure that would be followed at this Hearing of Appeal.

APPEAL AGAINST DISMISSAL (REF: APP/16/02)

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

The Appellant was not in attendance but was represented by Mr Norman King and Mr Charlie McDonald of Unite. Mr Stephen Daly, Customer Services Manager, was in attendance to present the case on behalf of Management. Tracy Keenan, HR Business Partner, was in attendance as an adviser to Mr Daly.

Mr Daly presented the case for Management and informed the Committee that he had two witnesses whom he would like the opportunity to question in support of his case.

The Chair invited the first witness, JM, to enter the meeting and thereafter the witness was heard in response to questions from Mr Daly, Mr King and Members of the Committee. JM left the meeting.

The Chair then invited the second witness, SK, to enter the meeting and thereafter the witness was heard in response to questions from Mr Daly and Members of the Committee. SK left the meeting.

Mr Daly was then heard in answer to questions from Mr King and Members of the Committee.

Mr King presented the case for the Appellant and thereafter Mr King and Mr McDonald were heard in answer to questions from Mr Daly and Members of the Committee.

Mr Daly and then Mr King 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 not been substantiated and the Appeal had not been upheld.

The meeting closed at 3.00 p.m.

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Thursday, 17 November 2016 at 9.36 a.m.

Present: Councillors Jim Brown, David McBride, John Mooney and Tommy Rainey.

Attending: Vicki Rogers, Strategic Lead – People & Technology; Raymond Lynch, Principal Solicitor and Nuala Quinn-Ross, Committee Officer.

Note: Darren Patterson, Strategic HR Manager was in attendance as an observer.

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”.

PROCEDURE

The Committee agreed to note the Appeals Against Disciplinary Action and Non-Disciplinary Dismissal Procedure that would be followed at this Hearing of Appeal.

APPEAL AGAINST DISMISSAL (REF: APP/16/03)

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

The Appellant was in attendance and was represented by Mr Brian Johnstone of GMB. Mr Phil MacDonald, Integrated Operations Manager, was in attendance to present the case on behalf of Management. Serena Barnatt, Head of People and Change, HSPC, was in attendance as an adviser to Mr MacDonald.

Mr MacDonald presented the case for Management and called IMcC, GMcC and JMCC as witnesses. IMcC, GMcC and JMCC were heard in answer to questions from Mr MacDonald, the Appellant, Mr Johnstone and Members of the Committee.

The Appellant and Mr Johnstone presented the Appellant's case and called JMCC as a witness. JMCC was heard in answer to questions from the Appellant, Mr Johnstone, Mr MacDonald and Members of the Committee.

Mr MacDonald and then the Appellant and Mr Johnstone 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 appeals had been substantiated in part and that the Appellant be reinstated as a Care Support Worker (Nights) at Stage 2 of the Attendance Management Policy and that the Stage 2 Improvement Notice will remain on file for 12 calendar months from the date of reinstatement.

The meeting closed at 4.30 p.m.

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Monday, 5 December 2016 at 9.30 a.m.

Present: Councillors John Mooney, Tommy Rainey and Kath Ryall.

Attending: Vicki Rogers, Strategic Lead – People & Technology; Darren Paterson, Strategic HR Manager; Nigel Ettles, Principal Solicitor and Craig Stewart, Committee Officer, Regulatory Services.

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”.

PROCEDURE

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

APPEAL AGAINST DISMISSAL (REF: APP/16/05)

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

The Appellant was in attendance and was represented by Charlie McDonald of Unite. Rodney Thornton, Fleet & Waste Services manager was in attendance to present the case on behalf of Management. Tracy Keenan, HR Business Partner, was in attendance as an Adviser to Mr Thornton.

Mr Thornton presented the case for Management and called FM, LH and JD as witnesses. FM, LH and JD were questioned by Mr Thornton, Mr McDonald and Members of the Committee. Mr Thornton was questioned by Mr McDonald and Members of the Committee.

Mr McDonald and the Appellant presented the case for the Appellant. Mr McDonald and the Appellant were then questioned by Mr Thornton and Members of the Committee.

Mr Thornton and then Mr McDonald 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, although the Committee was of the view that Management had acted correctly, the grounds of the appeal had been substantiated in part and the Appeal had been upheld to the extent that the Appellant was to be reinstated at Stage 3 of the Council's Attendance Management Policy and Procedure. The Stage 3 Review Period was to run for 24 calendar months from 5 December 2016.

The meeting closed at 2.07 p.m.

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Thursday, 12 January 2017 at 9.40 a.m.

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

Attending: Vicki Rogers, Strategic Lead – People & Technology; Darren Paterson, Strategic HR Manager; Nigel Ettles, Section Head – Litigation; and Nuala Quinn-Ross, Committee Officer.

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”.

MINUTES OF PREVIOUS MEETINGS

The Minutes of the Meetings of the Appeals Committee held on 14 January 2016; 11 February and 7 March 2016; 18 February, 24 May, 27 May, 20 July, 21 July and 25 August 2016; 17 March 2016 and 28 April 2016 were submitted and approved as correct records.

PROCEDURE

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

ADJOURNMENT

At 9.42 a.m. having heard the Chair, Councillor Rainey, the Committee agreed to adjourn the meeting for 30 minutes as the Appellant and their Trades Union representative were not in attendance.

APPEAL AGAINST DISMISSAL (REF: APP/16/04)

The meeting reconvened at 9.55 a.m. with all those Members shown on the sederunt in attendance and in addition the Appellant and her Trades Union representative.

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

The Appellant was in attendance and was represented by Mr David Smith of Unison. Ms Annie Ritchie, Field Work Manager was in attendance to present the case on behalf of Management. Serena Barnatt, Head of People and Change, HSPC, was in attendance as an adviser to Ms Ritchie.

Ms Ritchie presented the case for Management and called EK and MM as witnesses. EK and MM were heard in answer to questions from Ms Ritchie, Mr Smith and Members of the Committee. Ms Ritchie was also heard in answer to questions from Mr Smith and Members of the Committee.

Mr Smith presented the Appellant's case. Mr Smith and the Appellant were heard in answer to questions from Ms Ritchie and Members of the Committee.

Ms Ritchie and then Mr Smith 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 did not believe the Appellant had deliberately withheld notification of the offence to which she had pled guilty. However, the Committee accepted that the nature of the offence, the number of instances of the offence and the penalty imposed rendered the Appellant wholly unsuitable for the post from which she had been dismissed. Therefore, the Committee was unable to uphold the appeal which was accordingly not upheld.

The meeting closed at 1.12 p.m.