

APPEALS COMMITTEE

At a meeting of the Appeals Committee held in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Tuesday, 18 January 2011 at 9.50 a.m.

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

Attending: Nigel Ettles, Principal Solicitor.

Apologies: Apologies for absence were intimated on behalf of Councillors David McBride and Ronnie McColl.

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 MEETING

The Minutes of Meeting of the Committee held on 9 December 2010 were submitted and approved as a correct record.

APPEAL AGAINST DISMISSAL (REF: APP/09/11)

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.

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The Appellant was present and was represented by Tom Morrison of Unison. Management were represented by Gavin Walsh, Solicitor. The Committee noted that Francine Ewen, HR Manager, was on call and, if required, would attend as HR Adviser.

Mr Walsh called as witnesses Amanda Doherty, Care Worker; Douglas Dorran, Care Team Leader; Louise Faulds, Care Worker; Evelyn Hannah, Catering Assistant; and Lynn Ibriami, Care Worker. The witnesses were questioned by Mr Walsh, Mr Morrison, the Appellant and Members of the Committee. Mr Walsh then called as a witness Anna McGlashan, Care Team Leader. Ms McGlashan was questioned by Mr Walsh until the meeting was adjourned.

The meeting adjourned at 4.38 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Thursday, 20 January 2011 at 9.35 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management.

Mr Walsh called as witnesses Anna McGlashan, Care Team Leader; Gordon McNeil, Care Team Leader; Cathy Murray, Care Worker; and Tom O'Neill, Care Worker. The witnesses were questioned by Mr Walsh, Mr Morrison, the Appellant and Members of the Committee.

The meeting adjourned at 5.05 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Friday, 21 January 2011 at 9.10 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management.

Mr Walsh called as witnesses Barbara Talbot, Care Worker; Charlie McDonald, Trade Union Representative; Marie Buchanan, Care Support Worker; David Westwood, Catering Manager; and Robert Stevenson, Care Worker. The witnesses were questioned by Mr Walsh, Mr Morrison, the Appellant and Members of the Committee.

The meeting adjourned at 4.15 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Thursday, 3 February 2011 at 9.00 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management.

Mr Walsh called as witnesses Jean Mulvenna, Assistant HR Officer; Ian Smith, Assistant Principal Officer, Social Work; and Jim Nisbet, former Head of Service, Community Care, Social Work. The witnesses were questioned by Mr Walsh, Mr Morrison, the Appellant and Members of the Committee.

The meeting adjourned at 5.05 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Friday, 4 February 2011 at 12.40 p.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management.

Mr Walsh called as a witness Agnes Trotter, Assistant Principal Officer, Social Work. Ms Trotter was questioned by Mr Walsh and was then questioned by Mr Morrison until the meeting was adjourned.

The meeting adjourned at 4.10 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Thursday, 10 February 2011 at 9.00 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management.

Mr Morrison resumed questioning Ms Trotter and Ms Trotter was then questioned by the Appellant, Members of the Committee and Mr Walsh. Mr Walsh then called as a witness Anne Ritchie, Head of Service for Children's Health, Care and Criminal Justice Services. Ms Ritchie was questioned by Mr Walsh, Mr Morrison, the Appellant and Members of the Committee.

Following discussion, the Committee agreed that when the meeting was reconvened an HR Adviser would be in attendance to answer general questions of HR practice.

The meeting adjourned at 2.40 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Thursday, 17 February 2011 at 9.20 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management. Linda McAlister, Section Head, Policy and Employee Relations, was in attendance as HR Adviser.

Ms McAlister answered written questions from the Appellant and oral questions from the Appellant, Mr Morrison, Mr Walsh and Members of the Committee.

Mr Morrison called the Appellant as a witness. The Appellant was questioned by Mr Morrison and was then questioned by Mr Walsh until the meeting was adjourned.

The meeting adjourned at 5.15 p.m.

RECONVENED MEETING

The meeting of the Appeals Committee was reconvened in the Council Chambers, Municipal Buildings, Station Road, Dumbarton on Wednesday, 2 March 2011 at 9.15 a.m. The same Members were present. Mr Ettles was again in attendance and Councillor Black was again in the Chair. The Appellant was present and was again represented by Mr Morrison. Mr Walsh again represented Management. Linda McAlister, Section Head, Policy and Employee Relations, was in attendance as HR Adviser.

Ms McAlister gave further answers to the questions previously asked of her. She then left the meeting but was on call and, if required, available to attend as HR Adviser.

Mr Walsh resumed questioning the Appellant and the Appellant was then questioned by Members of the Committee and Mr Morrison

Mr Walsh summed up the case for Management and then Mr Morrison and the Appellant summed up the case for the Appellant. 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 in their deliberations had considered the two allegations that were specified in the letter of dismissal dated 14 September 2009.

The first allegation was of misconduct in relation to poor management practice which had resulted in the working hours of three members of staff being reduced and the working hours of two other members of staff being increased.

The second allegation was of bullying and breaches of dignity at work of a large number of staff, specifically:-

- 1) Creating an intimidating, hostile and humiliating environment and failing to treat staff with fairness, dignity and respect.
- 2) Excluding and ignoring staff, slamming doors, slamming down the telephone and generally making staff feel uncomfortable.
- 3) Punishing staff through non-verbal behaviour when they were off sick.
- 4) Picking on/punishing staff when they fell out of favour.
- 5) Belittling and reprimanding staff in front of others at Changeover Meetings.

With regard to the first allegation (poor management practice), the Committee had found the allegation to be proved. Had this been a stand-alone allegation the Committee would have considered a written warning to be appropriate.

With regard to the second allegation (bullying and breaches of dignity at work), it was claimed in the Appeal that there had been collusion and orchestration by staff and Management. The Committee had found no evidence of collusion or orchestration. The Committee had found the allegation to be proved and considered that the Appellant's conduct amounted to gross misconduct.

The parties were therefore advised that the grounds of the Appeal had not been substantiated and the Appeal had not been upheld.

The meeting closed at 4.30 p.m.