

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Meeting Room 2, Council Offices, Garshake Road, Dumbarton on Thursday, 8 September 2011 at 9.30 a.m.

Present: Councillors George Black, Jim Bollan, Jim Brown, Geoff Calvert and Jonathan McColl.

Attending: Nigel Ettles, Principal Solicitor; and Anne-Marie Cosh, HR Business Partner, Department of Housing, Environmental & Economic Development.

Apology: An apology for absence was intimated on behalf of Councillor 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 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/10/08)

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 Brian Johnstone of the GMB. Management was represented by Gavin Walsh, Solicitor.

Mr Johnstone and the Appellant presented the case for the Appellant and were then questioned by Mr Walsh and members of the Committee.

Mr Walsh called as witnesses AT and EF. The witnesses were questioned by Mr Walsh, Mr Johnstone and members of the Committee.

Mr Walsh and then Mr Johnstone summed up their respective cases and thereafter both parties withdrew from the meeting. At the request of the Committee, Ms Cosh 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 had found that the Grievance was justified and the Appeal had been upheld.

The Committee made the following findings:-

- (1) The Council's Recruitment and Selection Policy was explicit and should be followed.
- (2) The practice that was adopted in relation to the appointment in question was flawed and must be examined.
- (3) There should be consultation between Management and the Trades Unions regarding the practice that was to replace the flawed practice.
- (4) The Chief Executive was to issue an instruction prohibiting Managers from hearing a Grievance where they have had prior involvement in the subject matter of the Grievance.
- (5) The Director of the Community Health and Care Partnership was to send a letter of apology to the Appellant as the Appellant had been treated unfairly due to misapplication of the Recruitment and Selection Policy.

The meeting closed at 1.00 p.m.