

MORAY COUNCIL

Minute of Meeting of the Appeals Committee

Wednesday, 21 August 2019

Committee Room, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor Frank Brown, Councillor Paula Coy, Councillor Claire Feaver, Councillor Aaron McLean, Councillor Derek Ross, Councillor Amy Taylor

APOLOGIES

Councillor James Allan

IN ATTENDANCE

Human Resources Manager as Human Resources Adviser, Mr S Hoath, Senior Solicitor as Legal Adviser and Mrs C Howie, Committee Services Officer as Clerk to the Committee.

REPRESENTING THE APPELLANT

The Appellant

REPRESENTING THE DEPARTMENT

The Acting Head of Lifelong Learning, Culture and Sport (Educational Resources) and Ms A Youngson, Human Resources Adviser.

1 Chair of Meeting

The meeting was Chaired by Councillor Amy Taylor.

2 Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

3 Resolution

The Committee resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraph of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

4 CASE 2019-01 [Para 1]

An appeal was submitted on the grounds that the Appellant considers that her dismissal, on the grounds of gross misconduct was unfair as the circumstances of medication being taken by her were not considered in reaching the decision to dismiss her.

The Committee had before it the following documents:-

- i. Agreed Statement of Fact;
- ii. Statement of Case (Council); and
- iii. Statement of Case (Appellant).

The Committee were advised that the Appellant was in attendance but did not have a representative to support her.

Prior to inviting the Appellant and the Council's representatives to join the meeting the Committee had a brief discussion on whether to defer to allow the Appellant time to appoint a representative to attend with her.

The Committee agreed to ask the Appellant if she wished to continue or postpone, it was noted that should she wish to postpone then the Department's representatives should be given the opportunity to agree or otherwise.

The Appellant and the Council's representatives joined the meeting and introduced themselves to the Chair, members of the Committee and its Advisers.

The Chair asked the Appellant if she wished to defer the hearing until she could seek a representative to support her.

The Appellant advised she was happy to proceed.

The Appellant presented her submission to the Committee and thereafter responded to questions from the Council's representative, the Acting Head of Lifelong Learning, Culture and Sport (Educational Services). During questioning the Acting Head of Lifelong Learning, Culture and Sport (Educational Services) sought to introduce information not previously in evidence.

The Chair agreed, at the request of the Human Resources Manager, to a short adjournment to discuss whether the information was considered relevant and could therefore be brought to the table and both parties left the meeting.

During discussion the Committee agreed the information was after the fact and therefore not relevant.

On resumption, both parties were advised the information in question was considered not to be relevant and would not be considered.

Thereafter the Appellant responded to questions from the Committee.

The Council's representative, the Acting Head of Lifelong Learning, Culture and Sport (Educational Services), presented the Council's case and thereafter, with Ms Youngson, responded to questions from the Appellant and the Committee.

After giving their respective summations, both parties withdrew from the meeting to allow the Committee to deliberate the appeal.

Following full consideration of the documents submitted and submissions presented, the Chair moved that the grounds of the appeal had not been substantiated and the appeal be not upheld.

There being no one otherwise minded, the Committee unanimously agreed that the appeal be not upheld and the decision to dismiss the Appellant stands.

Both parties re-joined the meeting and the Chair intimated the findings of the Committee, confirming that the decision would be issued in writing to the Appellant within 10 days of the hearing.