

MORAY COUNCIL

Minute of Meeting of the Appeals Committee

Friday, 08 November 2019

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

PRESENT

Councillor Frank Brown, Councillor Paula Coy, Councillor Claire Feaver, Councillor Derek Ross

APOLOGIES

Councillor James Allan, Councillor Aaron McLean, Councillor Amy Taylor

IN ATTENDANCE

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

REPRESENTING THE AUTHORITY

The Provider Services Manager and Mrs L Brennan, HR Adviser.

1 Chair

In the absence of Councillor Taylor, Chair of the Appeals Committee, the Legal Adviser sought nominations from the Committee to Chair the meeting.

Councillor Ross nominated Councillor Brown to Chair the meeting. This was seconded by Councillor Feaver.

There being no-one otherwise minded, Councillor Brown assumed the role of Chair.

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 Members' interest 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 Item 4 of the Business 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.

Paragraph Number of Minute	Paragraph Number of Schedule 7A and reason
4	1 Information relating to staffing matters

4 Consider and determine Appeal Case No PA2019-02

An appeal was submitted under Section 17 Right of Appeal within Moray Council's Health and Work policy on the grounds that the Appellant considered that her dismissal on the grounds of capability due to accumulative ill health was unfair in the circumstances, and that specifically:

- Details of the Appellant's sickness absences prior to March 2016 were taken into consideration by the Chair of the Capability Hearing in making his decision to terminate the Appellant's employment due to accumulative ill health absences.
- Details of the Appellant's sickness absences as recorded in the management report are inaccurate, and therefore the Chair's decision to terminate her employment due to accumulative ill health absences was based on inaccurate information.

The Appellant, Mr Clegg, Union Representative (Unison) and the Council's representatives joined the meeting and introduced themselves to the Chair, members of the Committee and its Advisers.

The Committee had before it the following documents:-

- i. Agreed Statement of Facts
- ii. Statement of Case (Appellant)
- iii. Statement of Case (Council)

Mr Clegg, representing the Appellant, presented the Appellant's submissions to the Committee and, with the Appellant, responded to questions from the Council's representatives and the Committee.

The Council's representative, the Provider Services Manager, presented the Council's case and thereafter, with Mrs Brennan, responded to questions from the Appellant and the Committee.

After giving their respective summations, both parties agreed that they were satisfied with the conduct of the proceedings of the hearing and withdrew from the meeting to allow the Committee to deliberate the appeal.

Following full consideration of the documents submitted and submissions presented, Councillor Ross moved that the Committee agree that the grounds of the appeal have not been substantiated and the appeal is not upheld.

There being no one otherwise minded, the Committee unanimously agreed that the grounds of the appeal (Case PA2019-02) had not been substantiated and that the appeal is not upheld.

Both parties rejoined the meeting and the Chair intimated the findings of the

Committee confirming that the decision would be issued in writing to the Appellant in due course.