

# **MORAY COUNCIL**

## **Minute of Meeting of the Appeals Committee**

**Wednesday, 18 January 2023**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

### **PRESENT**

Councillor Peter Bloomfield, Councillor Tracy Colyer, Councillor Juli Harris, Councillor Scott Lawrence, Councillor Paul McBain, Councillor Shona Morrison, Councillor Ben Williams

### **IN ATTENDANCE**

Also in attendance at the above meeting were the Human Resources Manager, Sean Hoath, Senior Solicitor as Legal Adviser and Tracey Sutherland, Committee Services Officer.

### **REPRESENTING THE AUTHORITY**

The Head of Service and Andrea Elder, HR Adviser

### **REPRESENTING THE APPELLANT**

The Committee also noted that the Appellant and his Trade Union Adviser were also in attendance.

#### **1. Chair**

The meeting was chaired by Councillor Paul McBain.

#### **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

Information relating to staffing matters

#### **4. Consider and Determine Appeal Case No PA2022-01**

An appeal was submitted under Section 8 of Moray Council's Disciplinary Policy for Teaching Staff and Associated Professionals. The Appellant considered that his dismissal on the grounds of gross misconduct from the Council's employment was unreasonable. Specifically it is claimed that:

- It is not reasonable to dismiss on the grounds of loss of trust and confidence and potential risk to children, on the basis of an uncontested charge.
- He has pled not guilty and denies the allegation made against him.
- He is under legal advice not to discuss the circumstances around the case until the court case is completed.
- Once the court case is complete, additional information and evidence can be shared with Moray Council to enable a fully informed decision to be made.
- He disputes any reputational damage at this stage as Moray Council have acted promptly and taken precautionary measures based on the allegations.
- GTCS and Disclosure Scotland have paused their investigations until the court case is complete

The Appellant, Mr Flannigan, Union Representative (EIS) 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)

The Appellant presented his submission to the Committee and responded to questions from the Council's representatives and the Committee.

The Council's representative, Head of Service, presented the Council's case and thereafter responded to questions from the Appellant's Union Representative 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, Councillor Bloomfield moved that the Committee agree that the grounds of the appeal have not been substantiated and the appeal is not upheld. This was seconded by Councillor Colyer.

Councillor Lawrence, seconded by Councillor Harris proposed that the ground of the appeal had been substantiated and the appeal be upheld.

Councillor Morrison proposed referring the appeal to Moray Council for consideration and decision, however this failed to obtain a seconder so the amendment therefore fell.

On the division there voted:

|                       |   |
|-----------------------|---|
| For the Motion (4)    | Councillors Bloomfield, Colyer, McBain and Williams |
|                       |   |
| For the Amendment (3) | Councillors Lawrence, Harris and Morrison           |
|                       |   |
| Abstention (0)        |   |

Accordingly the motion became the finding of the meeting and the Committee agreed that the grounds of the appeal (Case PA2022-01) 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.