

MORAY COUNCIL

MINUTE OF MEETING OF THE APPEALS COMMITTEE

1 AND 13 MARCH 2019

COMMITTEE ROOM, COUNCIL OFFICES, ELGIN

PRESENT

Councillors A Taylor (Chair), J Allan, F Brown, P Coy, C Feaver, A McLean and D Ross

REPRESENTING THE AUTHORITY

The Provider Services Manager and the Human Resources Manager.

IN ATTENDANCE

The Acting Head of Human Resources and ICT as Human Resources Adviser to the Committee, Mr S Hoath, Senior Solicitor as Legal Adviser to the Committee and the Democratic Services Manager, as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS

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.

2. EXEMPT INFORMATION

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 5 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.

Para Number of Minute

4

Para Number of Schedule 7A

1

3. PROCEDURE TO BE ADOPTED BY THE COMMITTEE

There was submitted an appeal under Section 8 of The Moray Council's Disciplinary Procedures Policy, on the grounds that the Appellant considered that the disciplinary process leading to the sanction of dismissal on the grounds of gross

misconduct from the Council's employment was procedurally flawed and therefore unfair.

The Committee had before it, the following documents:-

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

The Senior Solicitor confirmed to the Committee that the Appellant had notified that he would not be in attendance due to ill health.

The Senior Solicitor, in referring to the terms of the Council's Appeals Process, advised the Committee that as the Appellant had been provided with the offer of 2 dates and neither had been acceptable to the employee or their representative for whatever reason, the case will be dropped. However, he was of the opinion that it was a matter for the Committee to determine whether it wished to drop the case, proceed in the Appellant's absence or defer and offer a further and final date to allow the Appellant to attend.

Following lengthy discussion the Committee unanimously agreed to defer the meeting to a date to be determined in order to allow the Appellant the opportunity to attend and that the Appellant be advised that should he be unable to attend on that date the appeal would be heard in his absence.

RESUMPTION OF MEETING

WEDNESDAY 13 MARCH 2019

COMMITTEE ROOM, COUNCIL OFFICES, ELGIN

PRESENT

Councillors A Taylor (Chair), J Allan, F Brown, P Coy, C Feaver, A McLean and D Ross

REPRESENTING THE AUTHORITY

The Provider Services Manager and Mrs R Geddes-Stewart, HR Adviser.

IN ATTENDANCE

The Acting Head of Human Resources and ICT as Human Resources Adviser to the Committee, Mr S Hoath, Senior Solicitor as Legal Adviser to the Committee and the Democratic Services Manager, as Clerk to the Committee.

4. PROCEDURE TO BE ADOPTED BY THE COMMITTEE

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

Prior to considering the undernoted appeal, the Committee approved the procedure, as detailed in the report, to be applied to the Hearing subject to the Committee and its Advisers being afforded the opportunity to ask questions of the Appellant (or their representative) and the Authority's representative following their respective presentation of cases. This was agreed by the Council's representative.

5. APPEAL CASE NO. PA2018-002 [PARA 1]

There was submitted an appeal under Section 8 of The Moray Council's Disciplinary Procedures Policy, on the grounds that the Appellant considered that the disciplinary process leading to the sanction of dismissal on the grounds of gross misconduct from the Council's employment was procedurally flawed and therefore unfair.

The Committee had the following documents before it:-

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

The Senior Solicitor confirmed to the Committee that the Appellant had advised earlier that day that he had decided not to attend due to the forecast of severe weather conditions.

In accordance with its previous view, the Committee resolved to continue with the hearing in the Appellant's absence.

The Committee noted that the Statement of Case submitted by the Appellant did not accord with the grounds of appeal as stated in the Appellant's original letter of appeal. Never the less the Committee did proceed to consider the matter and take all of the written submissions into account.

The Council's representative, the Provider Services Manager, and Mrs R Geddes-Stewart, HR Adviser presented the Council's case and thereafter responded to questions from the Committee.

After giving their summation, the Provider Services Manager and Mrs R Geddes-Stewart, HR Adviser 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, the Committee was satisfied that the appropriate procedures had been followed and that the decision to dismiss was reasonable unanimously agreed the appeal should not be upheld.