

Appeals Committee
27 January 2017

IRVINE, 27 January 2017 - At a Meeting of the Appeals Committee of North Ayrshire Council at 10.30 a.m.

Present

Councillors Alan Munro, John Bruce and Marie Burns

In Attendance

S. Montgomery, Solicitor (Democratic Services); and R. Lennon, Senior HR Adviser (Human Resources and Organisational Development) (Finance and Corporate Support).

Also In Attendance

Caroline Amos, Head of Service (Inclusion) (Education and Youth Employment); J. Singleton, HR Adviser (Finance and Corporate Support); the appellant and appellant's witness.

Chair

Councillor Munro in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Exclusion of the Public

The Committee resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the following item of business on the grounds indicated in terms of Paragraph 1 of Part 1 of Schedule 7A of the Act.

3. Disciplinary Procedure: Appeal Against Dismissal

Submitted report by the Chief Executive on the background to an appeal against dismissal by a former employee within Education and Youth Employment.

The Appellant was invited to provide clarification on whether the person accompanying him was attending in his capacity as a representative or as a witness. Following clarification that the person in question was attending as a witness, the latter was asked to leave the room and advised that he would be called when the Committee was ready to hear his evidence.

The Service Representative presented the grounds for dismissal as previously advised to the appellant in writing. The appellant was given the opportunity to respond to the issues raised and to ask questions of the Service Representative. Members of the Committee were also given the opportunity to ask questions.

Thereafter the appellant presented the grounds of the appeal. The appellant's witness was called to give evidence and the appellant asked him questions. The Service Representative was given the opportunity to respond to the issues raised and to ask questions of the appellant and the appellant's witness. Members of the Committee were also given the opportunity to ask questions of the appellant and his witness.

In the course of the hearing, the Chair asked the appellant to provide clarification as to why the investigating officer was not present to answer his questions. The appellant advised that he had asked the investigating officer to attend, but that the latter had had another appointment. The Chair offered the appellant an adjournment to allow the investigating officer an opportunity to attend the hearing at a later date. The appellant was advised that the investigating officer could not be compelled to attend the hearing.

In terms of Standing Order 5.7, the Chair then adjourned the hearing for a short recess to allow the appellant time to consider his position. The hearing reconvened with the same Members, officers and other parties present and in attendance.

The appellant advised he wished to proceed with the hearing.

After summing up their respective cases, the Service Representative together with the appellant and officers, withdrew from the hearing to allow the Committee to deliberate.

The Committee, Councillor Burns dissenting, agreed (a) that the grounds of appeal had been upheld in part; (b) that the penalty imposed was to be varied to a written warning which will remain on the Appellant's record for a period of 9 months from 27 January 2017; and (c) that the appellant be advised of the outcome in writing within 14 days.

The Meeting ended at 3.00 p.m.