

APPEALS COMMITTEE
MONDAY, 14TH NOVEMBER, 2016

(RECONVENED ON TUESDAY, 6TH DECEMBER, 2016)

PRESENT: Councillor J.K. Howell [Chair]

Councillors:

S.M. Allen, W.G. Hopkins, J.P. Jenkins, B.A.L. Roberts, S.E. Thomas and J. Williams

The following officers were in attendance:

Mrs J. Stuart	-	Principal H.R. Officer
Mr C. Jones	-	Assistant Solicitor
Mrs M. Evans Thomas	-	Principal Democratic Services Officer

Democratic Services Committee Room, County Hall, Carmarthen : 9.45 a.m. - 12.45 p.m.

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interest.

3. MINUTES

RESOLVED that the minutes of the meetings held on the 6th, 7th and 17th June, 2016 be signed as a correct record.

4. NOT FOR PUBLICATION

UNANIMOUSLY RESOLVED that pursuant to Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item as the report involved the disclosure of exempt information as defined in Paragraph 13 of Part 4 of Schedule 12A to the Act (As amended by the Local Government (Access to Information)(Variation) Order 2007) namely information which is likely to reveal the identity of an individual.

5. TO CONSIDER AN APPEAL AGAINST DISMISSAL - ENVIRONMENT DEPARTMENT

Following the application of the public interest test it was **UNANIMOUSLY RESOLVED** pursuant to the Act referred to in Minute No. 4 above to consider this matter in private, with the public excluded from the meeting, as it would involve the disclosure of exempt information likely to reveal the identity of an individual.

The public interest test in this matter related to the appellant's name and other personal details, being personal data as defined in Section 1 of the Data Protection Act 1988. The issue to be considered by the Committee was not a matter of public interest. Disclosure of the information in the report would be unfair and run contrary to the appellant's right to privacy. On balance, therefore, the public interest in disclosure was outweighed by the public interest in maintaining confidentiality of the report.

The Chair welcomed to the meeting the appellant and his trade union representative, together with the appointed Investigating Officers and HR representative and outlined the protocol which would be followed in hearing the appeal (copies of which were included in the agenda pack).

The Committee thereupon proceeded to receive evidence from the Investigating Officers, the appellant and his trade union representative.

Both parties were afforded the opportunity of cross-examining the evidence provided. At this point in the proceedings it became apparent that new evidence had come to light since the conclusion of the investigation. Both parties were therefore requested to leave the meeting to allow the Committee to receive legal advice.

Both parties were thereupon recalled to the meeting and advised that arrangements had been made for an officer from the Authority's IT division to attend the meeting to examine the new evidence.

Both parties were therefore requested to leave the meeting whilst the Committee considered the evidence and representations made. Both parties were thereupon recalled to the meeting to be advised of the Committee's decision.

RESOLVED that consideration of the appeal be adjourned to 6th December, 2016 to enable officers to examine the new evidence presented at the meeting.

[NOTE: During the course of the appeal the Committee adjourned on several occasions to obtain legal and technical advice.]

6. RECONVENED MEETING

The meeting reconvened in Committee Room 2, 3 Spilman Street, Carmarthen on Tuesday, 6th December, 2016 at 9.45 a.m.

PRESENT: Councillor J.K. Howell [Chair]

Councillors:

W.G. Hopkins, J.P. Jenkins and S.E. Thomas

The following officers were in attendance:

Mrs J. Stuart	-	Principal H.R. Officer
Mr C. Jones	-	Assistant Solicitor
Mr M. Davies	-	Democratic Services Officer

7. APOLOGIES

Apologies for absence were received from Councillors S.M. Allen, B.A.L. Roberts and J. Williams.

8. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interest.

9. APPEAL AGAINST DISMISSAL – ENVIRONMENT DEPARTMENT

The Chair welcomed to the meeting the appellant and his trade union representative, together with the appointed Investigating Officers and HR representative and advised that the purpose of the meeting that day was to continue with the hearing of an appeal against dismissal which was adjourned on 14th November, 2016. The Chair outlined the protocol which would be followed in hearing the appeal (copies of which were included in the agenda pack).

The Committee thereupon proceeded to receive evidence from the Investigating Officers, the appellant and his trade union representative. Both parties were afforded the opportunity of cross-examining the evidence provided and to sum-up, following which they withdrew from the meeting whilst the Committee considered the evidence and representations made.

The Committee, having considered all the evidence presented, together with the representations made by the appellant and the Investigating Officers

RESOLVED

- 6.1 that the appeal be upheld and the decision of the Disciplinary Hearing held on 6th October, 2016 to dismiss the appellant be rescinded and the appellant's employment be reinstated as from that date;**
- 6.2 that the appellant be issued with a final written warning and be required to undertake appropriate training.**

Both parties were recalled to the meeting and advised of the Committee's decision.

CHAIR

DATE