

APPEALS COMMITTEE

Friday, 11 October 2019
(Adjourned to Wednesday 16th October)

PRESENT: Councillor J.K. Howell (Chair)

Councillors:

S.M. Allen, K.V. Broom, D. Jones and E. Morgan

The following Officers were in attendance:

S. Murphy, Senior Solicitor

J. Stuart, Senior Business Partner (HR)

K. Thomas, Democratic Services Officer

Committee Room 2, 3 Spilman Street, Carmarthen, SA31 1LE - 9.45 am - 5.00 pm

1. APOLOGIES FOR ABSENCE.

An apology for absence was received from Councillor D. Williams.

2. DECLARATIONS OF PERSONAL INTEREST.

No declarations of interest were made.

3. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCE THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT, 1972.

There were no items of urgent business..

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 NOT FOR PUBLICATION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 - CHIEF EXECUTIVE 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 Commissioning and Investigating Officers, and outlined the protocol which would be followed in hearing the appeal (copies of which had been included in the agenda pack).

The Committee proceeded to receive evidence from the Commissioning Officer, her witness, and one of the appellant's witnesses.

(NOTE: the Committee adjourned at 12.45 p.m. for a lunch break and reconvened at 1.30 p.m.)

Following the adjournment the Committee received further evidence from the appellant and a witness. Both parties were then 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 called all parties back to the meeting to advise that due to the lateness of the day (5.00 p.m.), the meeting was to be adjourned to a date and time to be agreed in the week commencing the 14th October when it would reconvene to deliberate on the submitted evidence and representations in order to come to a conclusion. All parties would then be advised of the decision in writing.

UNANIMOUSLY RESOLVED that the meeting stand adjourned to a date and time to be agreed in the week commencing the 14th October, 2019.

RECONVENED MEETING

The Committee reconvened in Committee Room 2. Council Offices, 3 Spilman Street Carmarthen on Wednesday 16th October, 2019 at 2.00 p.m.

PRESENT: Councillor K. Howell (Chair)

Councillors: S.M. Allen, K. Broom. D. Jones and E. Morgan

The following Officers were in attendance:-

S. Murphy – Senior Solicitor

J. Stuart – Senior Business Partner (H.R.)

K. Thomas – Democratic Services Officer

(Committee Room 2, 3 Spilman Street, Carmarthen - 2.00 p.m. – 4.00 p.m.)

The Committee, in accordance with its earlier decision reconvened to consider all the evidence presented, together with the representations made by the appellant and his representative and the Commissioning and Investigating Officers:-

RESOLVED

- 5.1 That the allegations against the appellant were proven
- 5.2 That on the basis of the mitigating circumstances presented
- the appeal be upheld, with a final written warning,
 - the decision of the Disciplinary Hearing held on 27th June, 2019 to dismiss the appellant be rescinded and the appellant be demoted to an alternative post. If no budget exists for an alternative post then the employee should return to his substantive post with training and support
- 5.3 That the appellant be advised in writing of the full adjudication.

CHAIR

DATE