

APPEALS COMMITTEE

Tuesday, 12 November 2019

PRESENT: Councillor S.M. Allen (Vice Chair)

Councillors:

K.V. Broom, D. Jones, E. Morgan and D.T. Williams

The following Officers were in attendance:

C. Jones, Assistant Solicitor

L. Evans, Senior HR Advisor

L. Jenkins, Democratic Services Officer

Committee Room 2, 3 Spilman Street, Carmarthen, SA31 1LE - 9.45 am - 2.15 pm

1. APOLOGIES FOR ABSENCE.

Apologies for absence were received from Councillor Ken Howells

2. DECLARATIONS OF PERSONAL INTEREST.

No declarations of interest were received.

3. MINUTES

3.1. 4TH OCTOBER, 2019

UNANIMOUSLY RESOLVED that the minutes of the meeting held on the 4th October 2019 be signed as a correct record.

3.2. 11TH OCTOBER 2019 (ADJOURNED TO THE 16TH OCTOBER, 2019)

UNANIMOUSLY RESOLVED that the minutes of the meeting held on the 11th October 2019 be signed as a correct record, subject to the following amendment –

Minute 5.2 should read –

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- the decision of the Disciplinary Hearing held on 27th June 2019 to dismiss the appellant be rescinded and the appellant be demoted to an alternative post.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.

4. 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 none.

5. NOT FOR PUBLICATION

RESOLVED that pursuant to Paragraph 13 of Part 4 of Schedule 12A of The Local Government Act 1972, the public be excluded from the meeting during consideration of the following items as the reports contained exempt information and the outcome of the public interest test in these matters was that:

“The reports contained personal information relating to the applicants. Although disclosure would support transparency and accountability, the public interest in maintaining confidentiality outweighed the public interest in disclosure because of the need to protect the identities of the applicants and their families”.

6. TO CONSIDER AN APPEAL AGAINST DISMISSAL - COMMUNITIES DEPARTMENT

Following the application of the public interest test it was **UNANIMOUSLY RESOLVED** pursuant to the Act referred to in Minute No. 7 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, 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 and the appellant.

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.

DURATION OF MEETING

At 1:40.m, during consideration of this item, the Committee's attention was drawn to Corporate Procedure Rule 9 'Duration of Meeting' and the fact the meeting had been underway for three hours. It was **UNANIMOUSLY RESOLVED that Corporate Procedure Rules be suspended to allow for the consideration of the remaining agenda items.**

The Committee, having considered all the evidence presented, together with the representations made by, and on behalf of, the appellant and the Commissioning and Investigating Officers:-

RESOLVED that

- 6.1 the appeal be upheld and the decision of the Disciplinary Hearing held on 9th August 2019 to dismiss the appellant be rescinded and the appellant's employment be reinstated in a capacity/area other than that in which she was employed previously, however if another role is not available the appellant should revert to her substantive role;
- 6.2 that the appellant should revert to the bottom spinal point of Grade D
- 6.3 that the appellant be issued with a final written warning

CHAIR

DATE