

Draft

FALKIRK COUNCIL

Minute of meeting of the Appeals Committee held in the Municipal Buildings, Falkirk on Thursday 7 February 2019 at 9.30 a.m.

Councillors:

David Alexander
Jim Blackwood
Lynn Munro
John Patrick
Robert Spears

Officers:

Tracey Gillespie, Human Resources Manager
Colin Moodie, Chief Governance Officer
Brian Pirie, Democratic Services Manager

A16. Appointment of Convener

In the absence of Councillor Bouse, Councillor Alexander took the chair.

A17. Apologies

Apologies were intimated on behalf of Councillors Bouse, Collie and Reid.

A18. Declarations of Interest

No declarations were made.

A19. Minute

Decision

The minutes of meeting of the Appeals Committee held on 11 January was approved.

A20. Exclusion of Public

RESOLVED in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the meeting the press and public for the following item of business on the ground that it would involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 7A to the said Act.

A21. Appeal Against Dismissal

The Committee considered papers relating to an Appeal against dismissal which included (a) Note of Procedure; (b) Submission from the Appellant; (c) Submission from the Head of Social Work Children's Services dated 30 January 2019, and (d) Copies of core documents relating to the Appeal.

The Chief Governance Officer and the Human Resources Manager were in attendance as legal adviser and personnel adviser to the Committee respectively.

The Appellant, Mr A, was present and accompanied by Mrs Christina Lambie, GMB.

The Head of Social Work Children's Services and Human Resources Team Leader (Claire Haston) were present as representatives of the Council.

As a preliminary matter, the Appellant sought permission to circulate a letter from his Medical Practice Pharmacist as part of his submissions. The Head of Social Work Children's Services made no objections to the request. After consideration the Committee agreed to its late inclusion as part of the Appellant's submission.

The Appellant presented his case.

The Head of Social Work Children's Services then asked questions of the Appellant's representative.

Members of the Committee then asked questions of the Appellant.

The Committee adjourned at 10.40 am for a comfort break and reconvened at 10.55 am.

The Head of Social Work Children's Services presented the case on behalf of the Council and led evidence from two witnesses – Mr D and Mrs H. Footage from a CCTV recording was also shown.

The Head of Social Work Children's Services firstly led evidence from Mr D.

The appellant's representative asked questions of the Head of Social Work Children's Services and of Mr D.

Members of the committee asked questions of the Head of Social Work and Mr D.

Mr D then withdrew.

Mrs H joined the meeting.

The Head of Social Work Children's Services led evidence from Mrs H.

The appellant's representative asked questions of the Head of Social Work Children's Services and of Mrs H.

Members of the committee asked questions of the Head of Social Work and Mrs H.

Mrs H then withdrew.

The Committee then adjourned at 12.10 pm for a break and reconvened at 12.25 pm.

The Appellant's representative asked further questions of the Head of Social Work Children's Services.

Members of the Committee then asked further questions of the Head of Social Work Children's Services.

The Head of Social Work Children's Services summarised the case on behalf of the Council.

The Appellant's representative summarised the Appellant's case.

The parties to the appeal withdrew.

The parties to the appeal were recalled and the decision intimated to them.

The Committee, having carefully considered all of the submissions made, **AGREED** that the decision taken by management to discipline Mr A was justified in the circumstances but considered that the decision to dismiss Mr A was excessive.

The Committee, therefore, **AGREED** to uphold the appeal by Mr A and to reinstate the Appellant to his post from the date of the dismissal and to substitute a final written warning for the sanction of dismissal.

The Committee also expressed its expectation that the Appellant undergo a medical assessment to ensure his fitness to undertake his duties.