

## **APPEALS PANEL NO. 2**

**THURSDAY 20 MARCH 2014 AT 10.00AM**

PRESENT: Councillors Stothard (Chairman) Bell and Bloxham

OFFICERS: Director of Local Environment  
HR Advisory Service Team Leader  
Waste Services Operations Manager

ALSO

PRESENT: Appellant  
Appellant's Representative

### **1. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **2. PUBLIC AND PRESS**

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

### **3. APPEAL AGAINST DISMISSAL**

Consideration was given to an appeal against dismissal.

The Chairman introduced the Panel and HR Services Advisor and Committee Clerk taking the notes. The Chairman outlined the purpose of the hearing, together with the procedure to be followed and gave an assurance that the hearing would be conducted fairly and that all parties would be afforded the time necessary to put their case, following which the Panel would reach a decision.

The Chairman asked the Appellant to summarise the reason for his appeal.

The Appellant explained that there had been a number of problems in his private life which had led to a very difficult situation. As a result his job had suffered but under normal circumstances the issues with regard to attendance would not have happened. The family situation had now settled down. The appellant stated that he enjoyed his work and that he wanted to work but understood the reasons for the management decision.

The Appellant confirmed that he was comfortable with what had been said and that he had nothing further to add at that stage.

The Chairman invited the Council's representative to present the management case.

The Waste Services Operations Manager outlined the issues that had arisen over the period in question and stated that she believed that the Council could not have done more to support the appellant. However the appellant was aware of procedures in respect of sickness absence and had not followed them. Colleagues and Officers had made a number of attempts to contact the appellant without success. He had been advised of the support

available to him both through the Council and externally. The appellant's non-attendance had had an impact both on the service and on colleagues who were concerned about his welfare.

The Director of Local Environment explained that as a result of the information provided to her, and additional information that she had requested, she did not believe that there was anything else that the Council could do to support the appellant. She had taken into account the appellant's history and situation but also had to consider the impact on the service and colleagues. There were also health and safety issues, to himself, colleagues and members of the public, to be taken into account. Opportunities to support the appellant further and enable him to return to work had been lost by his lack of attendance at work and at disciplinary hearings. The Director considered all of the information and came to the conclusion that there was no real prospect of improved attendance and therefore came to the decision to dismiss the appellant. The Director provided an overview of the importance of attendance management and expectation of employees to comply with the process. The Director outlined the conditions of the dismissal and confirmed that the reason was conduct related as that was the final warning issued in August. .

The Chairman asked whether anyone present had any further questions to raise.

Members asked questions of the management representatives in relation to the correspondence within the document pack that had been circulated ahead of the hearing to which the Director responded.

In response to a further question the Director explained that the meeting with the appellant that had been scheduled for 15 January 2014 had been postponed at her request to enable more information to be sought.

A Member queried whether the appellant's domestic situation had been taken into account. The Director advised that it had and for that reason the appellant had not been dismissed earlier in the year when a similar situation had arisen and the appellant had been given a final written warning. Senior Officers had been very supportive of the appellant and following his absence in August 2013 believed that the situation was improving. In November 2013 the appellant was again absent from work and could not be contacted by any means including Officers visiting him at home.

A Member queried what effect the appellant's absences had had on the service. The Director explained that there had been both a financial cost, as it had been necessary to employ agency staff, as well as the impact on colleagues who were covering the work and were concerned about the appellant's health and wellbeing. The Director acknowledged that the absences were not malicious and that the appellant had been unable to work. However she believed that the appellant had a duty to keep himself well and maintain ongoing contact with managers but had not taken advantage of the opportunities given to him.

The Director advised that in August gross misconduct had been determined and the appellant had caused a risk to himself, colleagues and members of the public. The appellant had agreed to take up the offer of support and do something about the issues. An agreement was signed by all parties in relation to that support. At the end of that period the appellant had again been absent from work due to sickness. Officers and the Director had taken all the issues into account, including the appellant's family circumstances and the appellant was issued with a final written warning in August 2013. The current situation was an issue in respect of conduct relating to the Council's absence policies.

The Waste Services Operations Manager advised that there had been similar issues over the previous three years but acknowledged that while he was in work the appellant was good at his job. Sick notes had always been provided but the issue in that respect was the length of time the appellant was absent.

The Chairman invited the appellant's representative to respond on behalf of the appellant. The appellant's representative acknowledged that the management had supported the appellant but believed that his lack of response could have been as a consequence of his condition at that time. The appellant had taken advice about his problems and believed that they were now under control. The appellant wanted to work and to have his job back and asked the Panel to reconsider the decision made by the Director.

A Member queried whether the appellant was aware of how serious his situation was and asked why the decision should be overturned. The appellant explained his state at the time of the incidents and that he realised he had done wrong. He believed that he knew the job and generally was a good worker. He was prepared to do anything he could to maintain the steps he had already started taking. The appellant confirmed that the support he had received from the Council had been good but he had been unable to meet with the Occupational Health Nurse on a number of occasions due to work commitments. The appellant explained the situation that had led to the final written warning.

The Chairman invited the various parties to sum up.

The Director outlined the issues that had led to her decision to dismiss the appellant and added that, in her opinion, there was no real prospect of the situation being improved.

The appellant's representative believed that the appellant had turned his life around and knew that he had done wrong. Therefore he believed that the appellant should be given another chance.

At the request of the Chairman, the Appellant and his representative confirmed that they were satisfied with the manner by which the Appeals Panel hearing had been conducted, that he had received a fair hearing by the Panel and that he had nothing further to add.

The Chairman thanked the Appellant, his representative and Officers for their input and asked that they leave the hearing while the Panel considered their decision.

The parties left the room (at 10.55am) whilst the Panel considered their decision.

After considering all of the evidence presented at length the Panel invited the parties back into the meeting room (at 11.30am) to be informed of the decision.

On their return the Chairman advised that the Panel had:

**RESOLVED** – That, having considered all of the evidence presented, both prior to and at the hearing, the Panel had decided not to uphold the Appeal.

The Panel acknowledged the case provided by the appellant and appreciated the difficulties he had been faced with. The management had expressed concerns regarding the appellant's conduct in not following procedures and the impact that had on the service and the appellant's work colleagues.

Considering that, on this occasion the Panel felt that the management decision was appropriate taking into account all relevant factors. Therefore the Panel had elected to dismiss the appeal.

[The meeting ended at 11.40]