

APPEALS PANEL NO. 3

FRIDAY 23 NOVEMBER 2012 AT 10:00 AM

PRESENT: Councillors Boaden, Collier and Mrs Luckley

OFFICERS: Director of Community Engagement, HR Manager, HR Advisor, Performance Team Leader

1. APPOINTMENT OF CHAIRMAN

Consideration was given to the role of Chairman of Appeals Panel 3 for the remainder of the 2012/13 municipal year.

It was moved and seconded and:

RESOLVED – That Councillor Collier be appointed as Chairman of Appeals Panel 3 for the 2012/13 municipal year.

Councillor Collier thereupon took the Chair.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. 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.

4. APPEAL AGAINST DISMISSAL

Consideration was given to an appeal against dismissal.

The Panel and Officers introduced themselves and the Chairman outlined the purpose of the hearing and procedure to be followed.

The HR Advisor advised that there had been an error in the list of papers submitted and circulated a revised list.

The appellant introduced himself to the Panel and read out a statement regarding the appeal against dismissal. The appellant stated that the grounds of the appeal were that new evidence had come to light that was not presented before the original disciplinary hearing, that the punishment was too severe for the nature of the offences and that he did not receive a fair disciplinary hearing.

The appellant outlined the issues leading up to his dismissal and stated that he had not been given training appropriate to his post. During the investigation process the appellant

had not been advised that his actions could be considered as gross misconduct. Copies of relevant Council policy documents were given to the appellant when he was suspended and not when his employment started. The appellant quoted from the Council's Probationary Policy and Procedures and stated that he was not given the necessary information or training as required by those policies and procedures.

The appellant did not believe that he had received a fair disciplinary hearing and outlined the reasons. The Director of Community Engagement had contacted the appellant's former employers with regard to a form that was relevant to the case. The Director had not contacted the appellant to advise him of that intended that course of action and as the information was received during the investigation process the appellant believed that prevented him from receiving a fair hearing.

A letter of complaint had been received against the appellant who believed that it was unfair that he had not been informed of details of the author of the letter or the content.

With regard to his application form the appellant had advised the personnel department that he had been unable to supply the requested information as his computer had "crashed". The appellant was also unclear exactly what information was being requested. He had since provided new evidence to show that his computer had "crashed" and the information requested.

The appellant believed he had not received a fair hearing as he did not know what act of gross misconduct he was being accused of. He did not recall conversations that had been evidenced at the hearing and he was not aware that the issues around his job application would form part of the disciplinary hearing. The appellant did not believe his actions constituted gross misconduct and therefore dismissal was unfair and disproportionate.

The appellant concluded by stating that he had been happy to accept the post offered and hoped that it would lead to long term employment with the Council.

The appellant confirmed that he had nothing further to add at that stage.

The Chairman invited the Director of Community Engagement to present the management case.

The Director sought clarification with regard to the letter that had been received. The HR Manager confirmed that as the letter had instigated further investigation that had led to the appellant's dismissal it would not be necessary to either name the author of the letter or disclose the content.

The Director read from a statement that was circulated to the Panel and appellant. He stated that the issues raised potentially constituted some of the most serious and professionally damaging activities that an officer in the appellant's position could carry out. The Director acknowledged that there had been weaknesses in the Council's procedures. However those weaknesses did not outweigh the importance of the appellant's professional experience and personal integrity. The Director outlined the reasons that led to the decision to dismiss the appellant. He was confident that he had made the correct decision and that it was fair and consistent with decisions relating to similar cases within the Council.

The Director called the Performance Team Leader as a witness who confirmed her job title. She stated that on the day that the appellant started his employment with the Council there were a number of system problems and therefore she did not have as much time to spend with his as she would have liked. However the appellant had confirmed that he was familiar with the systems. The Team Leader had therefore suggested that the appellant look at the new version of the system that was in the test phase at that time and which contained fictitious information. She had suggested that he look at a number of addresses to familiarise himself with the system. The following day the appellant was given work to be carried out on the live system.

A Member requested clarification about the number of times the appellant had accessed documents inappropriately. The HR Advisor confirmed the dates and times.

The Team Leader confirmed her length of employment with the City Council and stated that someone with the experience of the appellant should know right from wrong.

In response the appellant outlined his reasons for leaving his previous employer. He stated that the Team Leader did not have a lot of dealings with him on his first day at the City Council. The Team Leader confirmed that she did not directly Line Manage the appellant but that the relevant officer had been out of the office the day that the appellant started. The appellant believed that he had worked hard and that he was well ahead of targets in reducing the backlog of work for which he had been employed. The appellant explained that he had not been advised of any Council policy that explained what he could and could not look at and stated that he had been advised at his induction that he could access records of people he knew but could not amend them. The appellant also advised that he could not remember signing a Register of Interest form that would identify any persons with whom he was acquainted.

With regard to information in respect of previous employment the Team Leader advised that the appellant had been advised at interview what information was required and that he had agreed to supply that information.

The Director and the HR Advisor confirmed that at no point had information about the appellant been discussed with his former employer and enquiries in respect of forms had been general.

Members sought clarification in respect of the appellant's application form. The issues were clarified by the Director and the HR Advisor.

The Director, followed by the appellant, summed up their cases.

The appellant confirmed that he was 100% satisfied with the manner that the Appeals Panel hearing had been conducted and that he had received a fair hearing by the Panel.

The Chairman thanked the appellant and Officers for their input and requested them to leave the hearing while the Panel considered their decision.

On their return the Chairman advised that the Panel had

RESOLVED – That the appeal would not be upheld and outlined the reasons for that decision which were:

- a) That in the Panel's opinion a person with the level of experience of the appellant should be aware of when it is and is not appropriate to access records of people known to him/her and for that reason alone the Panel agreed with the decision for dismissal, and
- b) With regard to the issues in respect of the appellant's application form, the Panel agreed that they were of secondary importance and would not have led the Panel to uphold the dismissal on its own.

[The meeting ended at 1.25pm]