

EAST AYRSHIRE COUNCIL

APPEALS PANEL

MINUTES OF MEETING HELD ON FRIDAY 10 DECEMBER 2010 AT 1000 HOURS IN COUNCIL CHAMBERS, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK AND TUESDAY 25 JANUARY 2011 AND TUESDAY 8 FEBRUARY 2011 BOTH AT 1000 HOURS IN MEETING ROOM 1, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK

PRESENT: Provost Stephanie Young and Councillors Jim Todd, Jimmy Kelly, Kathy Morrice and Eric Ross.

ATTENDING: Martin Rose, Head of Human Resources; and Gillian Hamilton, Administrative Officer.

CHAIR: Provost Stephanie Young, Chair.

APPOINTMENT OF CHAIR

1. The Administrative Officer invited nominations for the Chair and Provost Stephanie Young was appointed and took the Chair.

EXCLUSION OF PRESS AND PUBLIC

2. It was agreed that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 7A of the Act.

HEARING PROCEDURE

3. The Panel noted the Appeals Hearing Procedure (Disciplinary) (circulated).

PRELIMINARY MATTERS

4. The management representative drew the Panel's attention to a poor reproduction of a documentary submission which had been circulated prior to the meeting with the joint productions agreed by both parties, and requested that a substitute copy be circulated. The Panel agreed that the substitute copy be circulated.

The management representative then intimated that agreement had been reached with the appellant's representative on some elements of the case, as follows:-

The management representative advised that the Investigating Officer, appointed to investigate the alleged failures by the appellant in carrying out their duties, would give evidence first and then remain for the duration of the hearing. The management representative then gave the order in which three other witnesses would give evidence.

Further, the appellant's representative, on behalf of the appellant, had agreed to accept the failings established by the Investigating Officer as contained in disciplinary outcome correspondence to the appellant (circulated) and as a consequence, a further management witness would not now be required to give evidence.

CONSIDERATION OF DISCIPLINARY APPEAL NO D8/10

5. There were submitted productions by the Depute Chief Executive/Executive Director of Neighbourhood Services and the appellant (all circulated).

The Panel heard evidence from the management representative and two of their witnesses who spoke to all matters raised, all in accordance with the Hearing Procedure.

ADJOURNMENTS/RECONVENTIONS

6. The Panel adjourned at 1116 hours and reconvened at 1122 hours with the same Members and Officers present and in attendance.

The Panel adjourned at 1256 hours and reconvened at 1330 hours with the same Members and Officers present and in attendance.

SUPPLEMENTARY MATTER

7. The Panel requested additional documentary evidence, not currently before it, to assist in their consideration of the appeal.

ADJOURNMENT

8. It was agreed to adjourn at 1540 hours to enable management's representative to collate the additional documentary evidence.

RECONVENTION

9. The Panel reconvened at 1554 hours with the same Members and Officers present and in attendance.

The management representative circulated the additional documentary evidence referred to in Paragraph 7 above, gave a verbal summary of the contents, and intimated that in light of this document being admitted, the witness referred to in Paragraph 4 above, would now give evidence, notwithstanding the Panel had been advised previously that this would not be required.

ADJOURNMENT

10. The Panel adjourned at 1603 and reconvened at 1000 hours on Tuesday 25 January 2011 with the same Members and Officers present and in attendance, under exception of Councillor Eric Ross.

SUPPLEMENTARY MATTER

11. The management representative requested and it was agreed that further additional documentary evidence be circulated.

FURTHER CONSIDERATION OF APPEAL NO D8/10

12. The Panel heard evidence from two witnesses for management who spoke to all matters raised, all in accordance with the Hearing Procedure.

ADJOURNMENTS/RECONVENTIONS

13. The Panel adjourned at 1211 hours and reconvened at 1245 hours with the same Members and Officers present and in attendance.

The Panel adjourned at 1355 hours and reconvened at 1405 hours with the same Members and Officers present and in attendance.

FURTHER CONSIDERATION OF APPEAL NO D8/10

14. The Panel heard evidence from a further witness for management who spoke to all matters raised, all in accordance with the Hearing Procedure.

SUPPLEMENTARY MATTER

15. The Panel requested that further additional documentary evidence be circulated.

ADJOURNMENT/RECONVENTION

16. The Panel adjourned at 1630 hours and reconvened at 1000 hours on Tuesday 8 February 2011 with the same Members and Officers present and in attendance.

SUPPLEMENTARY MATTER

17. The management representative circulated the additional documentary evidence requested at Paragraph 15 above.

FURTHER CONSIDERATION OF APPEAL NO D8/10

18. The Panel heard evidence from the appellant, who spoke to all matters raised, all in accordance with the Hearing Procedure.

ADJOURNMENTS/RECONVENTIONS

19. At the appellant's request, the Panel adjourned at 1051 hours and reconvened at 1054 hours with the same Members and Officers present and in attendance.

The Panel adjourned at 1217 hours and reconvened at 1300 hours with the same Members and Officers present and in attendance.

The Panel adjourned at 1355 hours and reconvened at 1400 hours with the same Members and Officers present and in attendance.

OUTCOME OF APPEAL

20. Having heard both parties, the Panel agreed unanimously that the appeal against the decision to dismiss on the grounds of capability had not been substantiated and accordingly the appeal was not upheld.

The reasons for this decision would be detailed in a letter to the appellant and their representative.

The meeting terminated at 1450 hours.