

**EAST AYRSHIRE COUNCIL**

**APPEALS PANEL**

**MINUTES OF MEETING HELD ON TUESDAY 13 SEPTEMBER 2011 AT 1000 HOURS IN THE COUNCIL CHAMBERS, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Jim Todd, John McGhee, Tom Cook, Kathy Morrice and Moira Pirie.

**ATTENDING:** David Mitchell, Head of Legal, Procurement and Regulatory Services; and Stuart Nelson, Administrative Officer.

**CHAIR:** Councillor Jim Todd, Chair.

**ADJOURNMENT/RECONVENTION**

1. The meeting adjourned at 1001 hours and reconvened at 1017 hours with the same Members present and Officers in attendance, with the exception of Councillor Moira Pirie who joined the meeting at this point.

**APPOINTMENT OF CHAIR**

2. It was unanimously agreed to appoint Councillor Jim Todd as Chair.

**EXCLUSION OF PRESS AND PUBLIC**

3. 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 item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 7A of the Act.

**HEARING PROCEDURE**

4. The Panel noted the Appeals Hearing Procedure (circulated) to be followed at the meeting.

**PRELIMINARY ISSUES**

5. As a preliminary matter, the Chair advised that Appeals Hearings which related to dismissals would be audio recorded, in order that an accurate record could be retained to support any subsequent proceedings. The Chair further advised that Panel deliberations would not be subject to audio recording.

Further, the Panel noted (a) that the appellant's representative had available original versions of certain productions lodged by the appellant, which could be circulated to Members in the event that further visual clarity was required with respect to these productions during the Hearing process; and (b) as confirmed by the Head of Legal, Procurement and Regulatory Services, the protocol to be applied in the event that the appellant's representative may require to provide evidence to the Panel.

**CONSIDERATION OF DISMISSAL APPEAL: APPEAL REFERENCE NO D7/11**

6. There were submitted productions and a list of witnesses by the Depute Chief Executive/Executive Director of Neighbourhood Services, and productions by the appellant (all circulated).

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

**ADJOURNMENT/RECONVENTION**

7. The meeting adjourned at 1236 hours and reconvened at 1336 hours with the same Members and Officers present and in attendance and heard from the Head of Legal, Procurement and Regulatory Services with regard to a matter which had arisen during the Hearing process.
8. The management representatives then advised the Panel that, in light of further information which had been disclosed during the Hearing process, they were no longer minded to oppose the appeal and accordingly invited the Panel to uphold the appeal.

**OUTCOME OF APPEAL NO D7/11**

9. Having considered the advice provided by the Head of Legal, Procurement and Regulatory Services and the views of the management representatives relative thereto, it was agreed to recommend to the Chief Executive, as the Head of Paid Service, to take appropriate steps to reinstate the appellant to their previous post with effect from the date of termination.

The meeting terminated at 1345 hours.