

EAST AYRSHIRE COUNCIL

APPEALS PANEL

MINUTES OF MEETING HELD ON FRIDAY 8 MAY 2009 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK AND ON WEDNESDAY 27 MAY 2009 AT 0905 HOURS IN THE BOARD ROOM, GREENHOLM STREET, KILMARNOCK

PRESENT: Councillors Tom Cook and Stuart Finlayson, Provost Stephanie Young and Councillors Eric Ross and Elaine Dinwoodie.

ATTENDING: Craig Young, Team Leader, Litigation and Advice/Legal Adviser to the Panel; and Jennifer Morrison, Administrative Officer.

CHAIR: Councillor Tom Cook, Chair.

APPOINTMENT OF CHAIR

1. The Legal Adviser to the Panel invited nominations for Chair and Councillor Tom Cook was unanimously appointed and took the Chair.

EXCLUSION OF PRESS AND PUBLIC

2. The Panel resolved 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.

GRIEVANCE/DISPUTES APPEAL G5/09

3. There was submitted a copy of the Appeals Hearing Procedure (Grievance and Disputes) together with submissions by the appellant and the Executive Director of Educational and Social Services (all circulated).

The Legal Adviser to the Panel clarified that the submissions by the Executive Director of Educational and Social Services included a late submission and that the appellant's representative had no objection to its admission. Accordingly, the Panel agreed to accept the late submission.

The Appeals Panel heard evidence from the appellant and her representative and witness and from the management representative who spoke to all matters raised, all in accordance with the Hearing Procedure.

ADJOURNMENT/RECONVENTION

4. The Panel adjourned at 1210 hours and reconvened at 1230 hours with the same Members and Officers present and in attendance.

FURTHER CONSIDERATION OF APPEAL

5. The Panel then heard evidence from the Management Representative's witnesses.

ADJOURNMENTS/RECONVENTIONS

6. The Panel sought further documents from the Management Representative consisting of copy e-mails sent to one of the Management Representative's witnesses. The Panel adjourned at 1430 hours in order to allow the Legal Adviser to consider the terms of the emails and provide advice to the Panel in relation to them. The Panel reconvened at 1455 hours with the same Members and Officers present and in attendance. They agreed to have sight of an email sent to one of the Management Representative's witnesses dated 3 October 2006.

The Panel adjourned at 1630 hours and reconvened at 0905 hours on Wednesday 27 May 2009 in the Board Room, Greenholm Street, Kilmarnock, with the same Members and Officers present and in attendance with the exception of Councillor Eric Ross who had submitted his apology.

The Panel adjourned at 0910 hours on the request of the appellant's representative so that he could consider his position in light of Councillor Ross's absence. The Panel reconvened at 0935 hours with the same Members and Officers present and in attendance.

The Panel adjourned at 1210 hours and reconvened at 1235 hours with the same Members and Officers present and in attendance.

OUTCOME OF APPEAL

7. Having heard both parties, the Panel, agreed in respect of point (1) of the appeal, by majority, that the Head Teacher of Cumnock Academy had adequate Health and Safety Standards in place at Cumnock Academy. Accordingly, the grounds of the appeal had not been substantiated and the appeal not be upheld and in respect of point (2) of the appeal the Panel unanimously agreed that the investigation process carried out in relation to the appellant's case had, in part, not been carried out in an adequate and appropriate manner. Accordingly, the grounds of the appeal had been substantiated in part and the appeal upheld to the extent that there were issues regarding the length of time in providing the appellant with the recommendations contained in the Investigating Officer's report, and further no information was provided to the appellant on the follow up actions arising from the recommendations.

The meeting terminated at 1435 hours.