

**STAFF APPEALS COMMITTEE**

A meeting of the Staff Appeals Committee was held on 31 October 2006.

**PRESENT:** Councillor Ferrier (Chair), Councillors Rooney, P Thompson and A E Ward.

**OFFICIALS:** J Bennington, S Osbon and J Thompson.

**\*\* ALSO IN ATTENDANCE:** Appellant, Trade Union representative, S Giles plus witnesses.

**\*\* AN APOLOGY FOR ABSENCE** was submitted on behalf of Councillor McIntyre.

**\*\* DECLARATION OF INTERESTS**

No declarations of interest were made at this point of the meeting.

**\*\* EXCLUSION - PRESS - PUBLIC**

**ORDERED** that the press and public be excluded from the meeting for the whole of the business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**APPEAL - CASE REFERENCE AD/6/06**

The Committee considered case reference AD/6/06 regarding an appeal against dismissal on the grounds of it being unfair and disability-related discrimination.

Details of the procedure to be followed for the meeting together with statements of case, which had been prepared by the Service Area's representative and the Appellant, had previously been distributed.

The Service Area representative presented the Council's case and responded to questions posed by the Appellant's Trade Union representative, legal representative and Members of the Committee.

The Appellant's Trade Union representative together with three witnesses presented the case and responded to questions posed by the Service Area representative and Members of the Committee.

Following the summing up of the cases all withdrew from the meeting with the exception of Members and the legal, human resources and governance representatives whilst the Committee determined the appeal.

**ORDERED** as follows: -

1. That after careful consideration of the documentary and oral evidence presented, the appeal against dismissal be upheld and the Appellant be reinstated to his post.
2. That the reasons for the above decision were as follows:-
  - a) the Council had failed to follow statutory disputes procedures in that the Appellant had not been warned of the likely outcome of the disciplinary meeting arranged;

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- b) the Council had failed to obtain up to date medical evidence prior to dismissal to enable them to consider whether the Appellant's absences were medically/disability, or socially related;
  - c) the Council had failed to take into account the Appellant's disability and consider reasonable adjustments.
3. That as part of the management of the Appellant's sickness absence, the respective Officers consider the suggestion of the Committee to obtain up to date specialist medical evidence and consider making some suitable adjustments in respect of the Appellant's hours of work.
  4. That the Appellant be informed that he is still subject to the formal warning issued in relation to his sickness record which would continue to be monitored until 21 November 2006.
  5. That it be noted that the Committee's decision was not intended to belittle the Officers efforts to reduce sickness absence in accordance with Council policy which as indicated by the Appellant's trade union representative had received the general support of the Trade Union.