



GREAT YARMOUTH
BOROUGH COUNCIL

Appeals Committee

Date: Monday, 21 October 2013

Time: 10:00

Venue: Supper Room

Address: Town Hall, Hall Plain, Great Yarmouth, NR30 2QF

AGENDA

Open to Public and Press

DECLARATIONS OF INTEREST

You have a PERSONAL INTEREST in a matter being discussed at a meeting IF

- It relates to something on your Register of Interests form; or
- A decision on it would affect you, your family or friends more than other people in your Ward.

You have a PREJUDICIAL INTEREST in a matter being discussed at a meeting IF

- It affects your financial position or that of your family or friends more than other people in your Ward; or
- It concerns a planning or licensing application you or they have submitted
- AND IN EITHER CASE a reasonable member of the public would consider it to be so significant that you could not reach an unbiased decision.

If your interest is only PERSONAL, you must declare it but can still speak and vote. If your interest is PREJUDICIAL, you must leave the room. However, you have the same rights as a member of the public to address the meeting before leaving.

1 Minutes 3 - 4

To confirm the public minutes of the meeting held on 3 October 2013 at 10.00 am.

2 Minutes 5 - 6

To confirm the public minutes of the meeting held on 3 October 2013 at 1.00 pm.

3 Appeals Procedure 7 - 7

To note the appeals procedure attached.

4 EXCLUSION OF PUBLIC

In the event of the Committee wishing to exclude the public from the meeting, the following resolution will be moved:-

That under Section 100(A)(4) of the Local Government Act 1972, the 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 Part I of Schedule 12(A) of the said Act.

5 Grievance Form

Details

6 Management Report

Details

LARGER PRINT COPY AVAILABLE PLEASE TELEPHONE: 01493 846325

APPEALS COMMITTEE

3 October 2013 – 10.00 am

PRESENT:

Councillor Holmes (in the Chair); Hanton, Pettit, Plant and H Wainwright.

Mr S Duncan (Management), Mrs Emma Plane (HR Advisor), Miss Georgette Kent (HR Advisor), Mr A Brett (nplaw– Legal Advisor to the Appeals Committee) and Mrs K Smith (Senior Member Services Officer).

The Appellant and the UNISON representative were present.

1. MINUTES

The minutes of the meeting held on 5 September 2013 were confirmed.

2. EXCLUSION OF PUBLIC

RESOLVED:

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12(a) of the said Act.

3. APPELLANT 1

The Committee considered the appeal against dismissal.

RESOLVED:

That the Appellant was a Civil Enforcement Officer. This is an important position which involves the highest degree of trust and integrity. This is consistent with the Officer code of conduct. The Council's disciplinary rules state that theft, loss or misappropriation of cash and that serious negligence or misconduct omission, or in certain situations, failure in performance to a reasonable standard (including serious breach of the Council's code of conduct) can all amount to gross misconduct. The Council has an anti-Fraud and Corruption Policy and recognises its employees as an important element in its fight against fraud and corruption. Employees are therefore positively encouraged to raise any concerns that they may have. This policy states that 'staff are expected to conduct themselves in ways which are beyond reproach, above suspicion and are fully open accountable and that it is in the duty of all staff members to take steps to prevent, fraud, corruption and bribery.

The Appellant had no issues with the procedure that had been conducted at the previous disciplinary and did not raise any procedural issues at this appeal. This appeal was on the substance.

The Appeal Committee has made its decision on the balance of probabilities. It heard submissions from the Appellant, the Management Representative, evidence from the Appellant and Management and has read the documents contained in the Appeal pack. The Appeals Committee having heard the evidence, believes it was more likely that the Appellant had to be involved in relation to both charges. The Appeals Committee believes the Appellant was an experienced Parking Officer and would know the seriousness of these situations. The Appeals Committee have noted the Appellant's numerous admissions of involvement which would facilitate actions in breach of the Council's code of Conduct. The Appeals Committee felt that Antony Crooks, Darren Sweeby and the Appellant freely colluded in relation to these matters. The Appeals Committee noted that the Appellant did not choose to alert any Council member, senior council management above Mr Sweeby, raise a grievance or blow the whistle in relation to these matters.

The Appeals Committee agrees with the Seb Duncan's decision of 19 August 2013.

4. CLOSURE OF MEETING

The meeting ended at 4.17 pm.

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APPEALS COMMITTEE

3 October 2013 – 13.00 am

PRESENT:

Councillor Holmes (in the Chair); Hanton, Pettit, Plant and H Wainwright.

Mr S Duncan (Management), Mrs Emma Plane (HR Advisor), Miss Linda Andrews, Miss Georgette Kent (HR Advisor), Mr A Brett (nplaw– Legal Advisor to the Appeals Committee) and Mrs K Smith (Senior Member Services Officer).

The Appellant and the UNISON representative were present.

1. EXCLUSION OF PUBLIC

RESOLVED:

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12(a) of the said Act.

2. APPELLANT 2

The Committee considered the appeal against dismissal.

RESOLVED:

The Appellant was a senior Civil Enforcement Officer. This is an important position which involves the highest degree of trust and integrity. This is consistent with the Officer code of conduct. The Council's disciplinary rules state that theft, loss or misappropriation of cash and that serious negligence or misconduct omission, or in certain situations, failure in performance to a reasonable standard (including serious breach of the Council's code of conduct) can all amount to gross misconduct.

The Council has an anti-Fraud and Corruption Policy and recognises its employees as an important element in its fight against fraud and corruption. Employees are therefore positively encouraged to raise any concerns that they may have. This policy states that 'staff are expected to conduct themselves in ways which are beyond reproach, above suspicion and are fully open accountable and that it is in the duty of all staff members to take steps to prevent, fraud, corruption and bribery.

The Appellant had no issues with the procedure that had been conducted at the previous disciplinary and did not raise any procedural issues at this appeal. This appeal was on the substance.

The Appeals Committee has made its decision on the balance of probabilities. It heard submissions from the Appellant, the Management Representative, evidence from the Appellant and Management and has read the documents contained in the Appeal pack.

The Appeals Committee felt that there was collusion between Antony Crooks, Gary Greensmith and the Appellant in relation to both charges.

Given his experience and severity the Appeals Committee found it concerning that the Appellant did not :-

- a) Report this to more senior management such as Mike Chillingworth
- b) Dealt with this informally with a 'rollocking' given the disciplinary rules
- c) He didn't count the money

The Appeals Committee having heard the evidence believes it was more likely that the Appellant had to be involved in relation to both charges.

The Appeals Committee had agreed to uphold the management decision of Seb Duncan of 19th August 2013 and agrees with his reasoning.

4. CLOSURE OF MEETING

The meeting ended at 3.00 pm.

Procedure for Appeals Committee Meeting

Introduction - The chairperson of the Appeals Committee, who may be accompanied / assisted by a representative from HR and a Legal Adviser, will introduce the parties.

Employee's Statement of Appeal

The employee will state their reason for appeal and desired outcomes. As part of this witnesses may be called. The chairperson of the Appeals Committee may ask questions of each witness. The Committee and the Advisers may also ask questions of the employee and the witnesses.

Presentation of Decision of the Chairperson of the Grievance Hearing

The Chairperson of the Grievance Hearing will provide the reasons for the decision. As part of this witnesses may be called. The employee may ask questions of each witness. The Committee and the Advisers may also ask questions of the Chairperson of the Grievance Hearing and the witnesses.

Re-examination - Both parties will be asked if they wish to re-examine any evidence before they proceed to the next stage.

Final Statements - Both the officer handling the case for the employer and the employee (last) may make a final statement.

Adjournment - Either party may request an adjournment of the hearing at any stage.

Consideration of the case - All parties to the hearing will then withdraw. The committee, assisted by the advisers, will then deliberate. If it is necessary to recall either party or witness in order to clear up any point of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Decision - The chairperson of the committee will, if possible, give a decision to the parties immediately after the hearing. On occasion, time constraints may make it necessary to adjourn the hearing in order to properly consider the information provided. In this case, a decision meeting will be arranged for a later date. In any case, the employee will receive written confirmation from the Member Services Officer of the Committee's decision within 7 clear working days of the decision being made.

Note: References to 'employee' include the representative acting on the employee's behalf