

**HUMBERSIDE FIRE AUTHORITY**

**APPEALS COMMITTEE**

**4 SEPTEMBER 2014**

**PRESENT:** Councillors Baxter, Mathieson and Petrini

The Acting Monitoring Officer/Secretary, Senior HR Officer and Committee Manager were also present.

*The meeting was held at the Humberside Fire and Rescue Service Headquarters, Kingston upon Hull. Meeting commenced at 9.30 a.m.*

**4599 DECLARATIONS OF INTEREST** – There were no declarations.

**4600 APPOINTMENT OF CHAIRPERSON - Resolved** – That Councillor Baxter be appointed Chairperson for this meeting.

**4601 EXCLUSION OF THE PRESS/PUBLIC - Resolved** – That the press and public be excluded from the meeting for consideration of the following items (Minutes 4602 and 4603) on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

*(In making its decision the Committee confirmed that having regard to all the circumstances it was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information).*

**4602 APPEAL AGAINST FINAL WRITTEN WARNING (REF 1/2014)** – The Committee considered an appeal (Ref 1/2014) under the terms of the Service's Conduct and Performance Procedure against the decision of the Chief Fire Officer and Chief Executive to award a Final Written Warning to a Firefighter with the Humberside Fire and Rescue Service. The appellant was represented at the meeting by Mr R Walker (FBU representative). The Humberside Fire and Rescue Service was represented by GM P McCourt and GM P Hayden. The Chief Fire Officer & Chief Executive attended as a witness for the Humberside Fire and Rescue Service.

The grounds of appeal set out by the appellant were:

1. There was a defect in the procedure.
2. The issue was not proven on the balance of probability.
3. The disciplinary action was too severe.
4. New evidence has come to light since the hearing which will have an impact on the decision.

New evidence submitted by the Appellant was circulated at the meeting.

With regard to the grounds of the appeal the Committee found:

Ground 1 – Whilst the procedure did take too long, the Committee does not consider that there was a defect in the procedure sufficient to uphold the appeal.

Grounds 2 + 3 - The Committee considers that the issue was proven on the grounds of probability. In terms of the severity of the sanction, the Committee has noted that the Chief Fire Officer & Chief Executive took the Appellant's case into mitigation in arriving at his decision; it therefore does not consider that the sanction was too severe.

New evidence – The Committee does not consider the new evidence submitted by the Appellant has any material significance in that the Brigade has accepted that a conversation with the Central Ticket Office had taken place.

The Committee has therefore **Resolved** that the appeal be dismissed.

**Adjournment** – The meeting was adjourned at 12.00noon and re-convened at 1.00pm.

**4603 APPEAL AGAINST FINAL WRITTEN WARNING AND STOPPAGE OF PAY (REF 2/2014)** – The Committee considered an appeal (Ref 2/2014) under the terms of the Service's Conduct and Performance Procedure against the decision of the Chief Fire Officer and Chief Executive to award a Final Written Warning and Stoppage of Pay to a Firefighter with the Humberside Fire and Rescue Service. The appellant was accompanied at the meeting by Mr B Watcham (a workplace colleague) who also spoke on behalf of the Appellant. The Humberside Fire and Rescue Service was represented by GM P McCourt and GM P Hayden. The Chief Fire Officer & Chief Executive attended as a witness for the Humberside Fire and Rescue Service.

At the commencement of the appeal, the Appellant agreed that the appeal was based on three grounds:

- (a) There was a defect in procedure;
- (b) The issue is not proven on the balance of probability;
- (c) The disciplinary sanction was too high.

**Adjournment** – The meeting was adjourned at 2.36pm and re-convened at 2.41pm.

With regard to each of these grounds, the Committee found as follows:

- (a) There was a defect in procedure - Whilst the procedure did take too long, the Committee does not consider that there was a defect in the procedure sufficient to uphold the appeal.
- (b) The issue is not proven on the balance of probability - The Committee considers that the issue was proven on the grounds of probability. In particular, it does not accept that the Presiding Officer was not impartial.
- (c) The disciplinary sanction was too high - We received no direct submissions on this point, however, the Committee has noted that the Chief Fire Officer & Chief Executive took factors into account in mitigation in arriving at his decision; it therefore does not consider that the sanction was too severe.

The Committee has therefore **Resolved** that the appeal be dismissed.

*Meeting closed at 3.51pm*