

HUMBERSIDE FIRE AUTHORITY

APPEALS COMMITTEE

28 APRIL AND 13 JUNE 2017

PRESENT: Councillors Allen, Chadwick and Mathieson

The Monitoring Officer/Secretary, Director of Human Resources and Committee Manager were also present.

The meeting was held at the Humberside Fire and Rescue Service Headquarters, Kingston upon Hull. Meeting commenced at 1.30 p.m.

5457 DECLARATIONS OF INTEREST – There were no declarations.

5458 APPOINTMENT OF CHAIRPERSON - Resolved – That Councillor Chadwick be appointed Chairperson for this meeting.

5459 EXCLUSION OF THE PRESS/PUBLIC - Resolved – That the press and public be excluded from the meeting for consideration of the following item (Minute 5460) on the grounds that it involves 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).

5460 APPEAL AGAINST DISMISSAL (REF 1/2017) – The Committee considered an appeal (Ref 1/2017) under the terms of the Service's Conduct and Performance Procedure against the decision of the Director of Emergency Response to dismiss the appellant from his post of retained duty system firefighter. The appellant was represented at the meeting by Mr G Marshall (FBU representative). The Humberside Fire and Rescue Service was represented by the Director of Emergency Services, Group Manager D Meeke and Station Officer J Askew.

The grounds of appeal set out by the Appellant were:

1. New evidence has come to light since the hearing which will have an impact on the decision.
2. The disciplinary sanction was too severe.

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

Following clarification of the procedure to be followed for the hearing both parties agreed that whilst new evidence had been submitted on behalf of the Appellant a full re-hearing was not necessary and the hearing should be conducted as a review of the decision of the formal disciplinary hearing held on 13 March 2017 for which the transcript was agreed by both parties.

At the request of one of the parties it was agreed that the proceedings be adjourned for a 5 minute comfort break.

At the close of the presentations the parties left the meeting at 4.20pm to enable the Committee to deliberate in private, with only the Officers present.

The parties were invited back in to the meeting at 5.50pm and were informed that the Committee had **Resolved** that given the submissions made by the Appellant's representative questioning the evidence by witnesses at the hearing on 13 March 2017 the appeal hearing be adjourned to allow the witnesses at that hearing to be heard by this Committee.

Meeting closed at 5.57 p.m.

APPEALS COMMITTEE

13 JUNE 2017

PRESENT: Councillors Chadwick (Chairperson), Allen and Mathieson

The Monitoring Officer/Secretary, Director of Human Resources and Committee Manager were also present.

The meeting was held at the Humberside Fire and Rescue Service Headquarters, Kingston upon Hull. Meeting commenced at 10.00 a.m.

5461 DECLARATIONS OF INTEREST – There were no declarations.

5462 EXCLUSION OF THE PRESS/PUBLIC - Resolved – That the press and public be excluded from the meeting for consideration of the following item (Minute 5463) on the grounds that it involves 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).

5463 APPEAL AGAINST DISMISSAL (REF 1/2017) – The Committee considered further the appeal (Ref 1/2017) against the decision of the Director of Emergency Response to dismiss the appellant from his post of retained duty system firefighter that had been adjourned on 28 April 2017 to allow the Committee to hear from witnesses. The appellant was accompanied at the meeting by his representative Mr G Marshall (FBU). The Humberside Fire and Rescue Service was represented by the Director of Emergency Services, Group Manager D Meeke and Station Officer J Askew.

The Committee heard from FF RM and FF RS and also the appellant. The evidence of FF RM was heard in the absence of the appellant but in the presence of his representative. FF SB made a request for his evidence to be given in the absence of the Appellant. The Committee noted that FF SB had given evidence at the disciplinary hearing in the presence of the appellant and considered that the appellant should not be excluded whilst FF SB gave his evidence. FF SB declined to give evidence. The Committee decided it was not necessary to hear from SM AS.

At the close of the witness presentations and final submissions the parties left the meeting to enable the Committee to deliberate in private, with only the Officers present. The parties were then invited back in to the meeting and were informed of the Committee's findings and decision.

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

- With regard to the ground that new evidence has come to light since the hearing which will have an impact on the decision. This related to the appellant's statement that evidence was sent to an email account he did not use a lot and he only accessed the information before the hearing. The Committee noted that the procedure does not specify a method of delivery and considered that this, if it were a failing, would not be sufficient reason to overturn the decision of the first hearing.
- With regard to the ground that the disciplinary sanction was too severe it became clear that the actual grounds of appeal were that there was a defect in the procedure and the issue was not proven on the balance of probabilities. The Committee found that the fact that certain witnesses had not been interviewed would not have made a material difference to the outcome and that it was reasonable to find that the incidents upon which the decision to dismiss had taken place. The actions constituted gross misconduct and therefore the sanction of dismissal was not too severe.

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

Meeting closed at 1.43 p.m.