

## APPEALS PANEL

Minutes of meeting held in Committee Room 5, Council Offices, Almada Street, Hamilton on 29 April 2010

**Chair:**

Councillor Denis McKenna

**Councillors Present:**

Hugh Dunsmuir, Jim Handibode, Anne Maggs, John Murray, Sheena Wardhaugh

**Attending:**

**Corporate Resources**

G Robertson, Personnel Adviser; T Slater, Administration Officer

---

### Appointment of Chair

In terms of Standing Order No 27, Standing Order No 32 was suspended to allow Councillor McKenna to take the Chair for this meeting.

---

### 1 Declaration of Interests

No interests were declared.

---

### 2 Exclusion of Press and Public

**The Panel decided:**

that, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, the press and public be excluded from the meeting for the next item of business on the grounds that it was likely that there would be disclosure of exempt information in terms of Paragraph 1 of Part I of Schedule 7A of the Act.

---

### 3 Appeal Against Termination Due to Incapability

The Panel considered an appeal (Ref 1/10) by a former employee of the Council against her termination due to incapability.

The appellant was not present but was represented by S Smellie, Unison. The Council was represented by the Personnel Manager of the appellant's former Resource.

S Smellie advised that the appellant was unable to attend due to ill health following hospital treatment and requested that the appeal proceed in the appellant's absence. The Personnel Manager expressed the opinion that it would be unfair to proceed in the appellant's absence as she would be unable to explore various issues which required to be considered by the Panel. S Smellie accepted this but indicated that he would not be disputing any facts in terms of the appellant's absence and that he would confine his presentation to the contents of a letter dated 2 December 2009 from the Resource to the appellant which outlined the support that management was able to offer to facilitate the appellant's return to work.

Both sides withdrew and, following discussion, the Panel was of the view that:-

- ◆ in terms of the submissions put before them, all reasonable adjustments had been offered to the appellant to facilitate a return to work
- ◆ as the issue was incapability and the appellant's representative had indicated that the appellant was not currently fit for work and had confirmed that this would be the case for the next 6 months, they could not reinstate the appellant

Both sides re-entered the meeting and were advised of the Panel's view.

**The Panel decided:** that the appeal be dismissed.

---

#### **4 Urgent Business**

---

There were no items of urgent business.