

## **APPEALS COMMITTEE**

**MINUTES** of a **MEETING** of the **APPEALS COMMITTEE** held in Committee Room No. 1 (Fougères Room), Civic Centre, Tannery Lane, Ashford on the **17<sup>TH</sup> FEBRUARY 2005**

**PRESENT:** Cllr. Wedgbury (Chairman);  
Cllrs. Cowley, Taylor

**ALSO PRESENT:** Principal Legal Assistant, Member Services Officer, Mrs S Smith (UNISON Observer)

Head of Cultural Services, Personnel & Development Manager, Facilities Manager – Stour Leisure (part)

Appellant, Mr S Bechelli (part)

### **438 ELECTION OF CHAIRMAN**

**Resolved:**

**That Councillor Wedgbury be elected as Chairman for this meeting of the Appeals Committee.**

### **439 MINUTES**

**Resolved:**

**That the Minutes of the meeting of this Committee held on the 21<sup>st</sup> January 2004 be approved and confirmed as a correct record.**

### **440 EXCLUSION OF THE PUBLIC**

**Resolved:**

**That pursuant to Section 100A(4) of the Local Government Act 1972, as amended, the public be excluded from the meeting during consideration of the following item, namely Appeal Against Disciplinary Action, as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present there would be disclosure of exempt information hereinafter specified by reference to paragraph 1 of Schedule 12A of the Act.**

### **441 APPEAL AGAINST DISCIPLINARY ACTION**

The Chairman welcomed everyone present and invited each party to present their case.

The Personnel and Development Manager and the Head of Cultural Services presented the Management Case and called the Facilities Manager – Stour Leisure, as a witness.

The Appellant presented his own case and called Mr S Bechelli as a witness.

After putting their cases and questioning the witnesses in turn, both sides then took the opportunity to sum up.

The two parties, UNISON Observer and Officers except for the Member Services Officer then left the meeting whilst the Committee made its decision. The Principal Legal Assistant then returned to assist Members with the wording of their decision.

The two parties and the UNISON Observer then returned to the meeting to be advised of the outcome.

**Resolved:**

**That the Committee felt it was inappropriate for the Appellant's Line Manager to conduct an informal discussion under the Council's Policy for Managing Poor Performance in a public area. Such discussions should be held in private where all the relevant issues could be identified and discussed.**

**The Appellant accepted that his conduct was less than satisfactory and this put the Council at an unnecessary risk of failing in its Health and Safety duties towards the public and staff.**

**The Committee considered that it would have been very difficult for the Disciplinary Hearing to understand the nature and effect of allegation (a) set out in the Stour Leisure Facilities Manager's letter dated 8<sup>th</sup> December 2004 without considering allegations (b), (c), (d) and (e). It was for a party making an assertion to prove it, and the Disciplinary Hearing were entitled to hear the witnesses that it did.**

**The Committee felt the Appellant was not, but should have been, given a reasonable length of time to improve and have milestones for improvement set, in accordance with paragraph 2.3 (iv) of the Council's policy on Managing Poor Performance.**

**The Committee wished to stress that they considered the misconduct admitted by the Appellant to verge on serious misconduct and in all the circumstances considered that the Appellant should have been given a Verbal Warning, rather than a First Written Warning and that the record should be amended accordingly.**

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