MINUTE of MEETING of the EMPLOYEE APPEALS COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, on 16 DECEMBER 2022.

Present – Councillors Tom Conn (Chair), Maria MacAulay, Moira McKee Shemilt, Anne McMillan and Tony Pearson

1 DECLARATIONS OF INTEREST

Councillor Tom Conn stated a connection as a fully paid up member of Unite; as the appellant and his representative were not known to him, he would participate in the meeting.

Councillor Tony Pearson stated a connection as a fully paid up member of Unite; as the appellant and his representative were not known to him, he would participate in the meeting.

2 MINUTES

The committee noted the minute of its meeting held on 28 October 2022. The Chair thereafter signed the minute.

3 PRIVATE SESSION

The committee resolved in terms of Paragraph 1 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 that the remaining items of business be taken in private.

4 CONSIDERATION OF APPEAL

Introductions were made by all parties and the Chair explained the procedure that would be followed.

The committee was invited to consider an appeal by an employee under the Procedure for Consideration of Appeals against Disciplinary Action.

The management was represented by Jim Jack, Head of Operational Services, who was accompanied by Alison Egan, HR Business Partner. The management called one witness.

The appellant was present and was accompanied by his trade union representative. The appellant did not call any witnesses.

Parties agreed that witnesses would be excluded from the proceedings until called.

The committee heard the management speak in relation to the appeal.

The appellant was then given the opportunity to question the management.

The committee had an opportunity to question the management.

The management called their witness.

The appellant had the opportunity to question the management's witness.

The committee then had an opportunity to question the management's witness.

The management was given an opportunity to re-examine their witness after he had answered questions from the appellant and committee.

The committee heard the appellant and his representative speak in relation to the appeal.

The management was given the opportunity to question the appellant.

The committee then had the opportunity to question the appellant.

The appellant and his representative were given an opportunity to re-examine anything that had been raised during questioning.

Finally, each side summed up the merits of the case.

All parties then exited the meeting to allow the committee to deliberate in private.

Motion

To uphold the appeal and reinstate the appellant to his original post and salary with a final written warning as council procedures had not been followed correctly and disciplinary action was excessive.

- Moved by Councillor Tony Pearson and seconded by Councillor Maria MacAulay.

Amendment

To not uphold the appeal; the disciplinary action should stand and be regarded as confirmed.

- Moved by Councillor Anne McMillan and seconded by Councillor Tom Conn.

Following an electronic vote, the motion was successful by 3 votes to 2 and was agreed accordingly.

After reaching its decision, all parties returned to hear the decision of the committee.

Decision

The committee found that the grounds for the appeal had been

substantiated and therefore the appeal was upheld.