

EMPLOYMENT APPEALS COMMITTEE

Meeting: 24 May 2006
At: 9.30 am

PRESENT

Councillor Christine Corris (Chair) in the chair and Councillor Stuart Bodsworth.

1. MINUTES

The minutes (copies of which had been circulated) of the meeting held on 20 March 2006 were approved as a correct record and signed by the Chair.

2. DECLARATIONS OF INTEREST

No declarations were made.

3. PUBLIC QUESTION TIME

No public questions were submitted.

4. EXCLUSION OF THE PUBLIC

RESOLVED - That the public be excluded from the meeting during consideration of agenda item 5 to prevent the disclosure of information relating to an individual. It would not, on balance, be in the public interest to disclose this information to the public because disclosure of the personal information would not be fair to the appellant and therefore be in breach of Data Protection.

Item not for publication

5. APPEAL A223

The Committee considered an appeal against dismissal from an employee of the Adults and Communities Directorate. The appellant withdrew at the beginning of the hearing as he found the process distressing and this may have triggered his impairment further. His representative was asked by the Committee if any reasonable adjustments were required but the parties agreed to continue in the appellant's absence. The Committee considered whether the appellant had been unfairly dismissed and whether he had been unfairly discriminated against on the grounds of his disability.

The Committee considered the medical evidence that management relied upon to inform their decision and accepted that it was inappropriate for the appellant to continue in his substantive post or to continue to work in isolation in a position that would involve risk to the appellant or to others.

The Committee considered arguments whether the redeployment process had been correctly followed and accepted the evidence that the appellants stipulated preferences had restricted his choice of available posts; that he had applied for jobs independently outside the redeployment process; and that he was unsuccessful for

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those posts on justifiable grounds; for any posts identified the skills gap could not be bridged within a reasonable time. The redeployment process was unsuccessful and the Committee accepted it was reasonable for management to rely on medical evidence which stated that there was no indication that the appellant could have returned to work in the foreseeable future.

The Committee also considered whether the Council had explored the option of ill health retirement fairly and were satisfied that the appellant's situation was investigated fairly by an independent doctor who decided that it was not appropriate given the appellants medical condition.

It was then

RESOLVED – That the decision of the Council to dismiss be upheld. The Committee considered the presentations from management and the appellant's representative and concluded that the Council's decision to dismiss was reasonable and, therefore, fair. Furthermore, the Committee did not believe that the appellant had been unfairly discriminated against on the grounds of disability and concluded that the Council had complied with their duty to make reasonable adjustments.

The meeting closed at 11.54 am.