

DISCIPLINARY/DISMISSAL/GRADING APPEALS COMMITTEE

Wednesday, 13th July at 9.30 a.m. in Committee Room 3
in the Council House, Dudley

PRESENT

Councillor James (Chairman)

Councillor Ms Nicholls (Vice Chairman)

Councillors: A Aston, Ms Harris, J D Davies and J Woodall, together with Mrs K Jesson, Head of Human Resources, (Directorate of the Urban Environment), Ms S Riaz, Senior Solicitor, Ms E Kerrigan, Solicitor, and Mrs J Rees (Directorate of Corporate Resources).

ALSO IN ATTENDANCE

Mr G Gibbs (Representative of GMBH),

Mr CD and Ms JC as persons to be called upon by the Committee to clarify issues raised,

Mrs T Reilly, Assistant Director of Law, Property and Human Resources.

1. **APOLOGIES FOR ABSENCE**

Apologies for absence from the meeting were submitted on behalf of Councillors Banks, Mrs Cowell, Mottram and Ms Partridge.

2. **APPOINTMENT OF SUBSTITUTES FOR THE MEETING OF THE COMMITTEE**

It was reported that Councillor J D Davies had been appointed as a substitute member for Councillor Mrs Cowell, for this meeting of the Committee only.

3. **DECLARATIONS OF INTEREST**

No member declared a personal or prejudicial interest, in accordance with the Members' Code of Conduct, in respect of any matter to be considered at this meeting.

4. **MINUTES**

RESOLVED

That the minutes of the meeting of the Committee held 10th November, 2010, be approved as a correct record and signed.

5 **EXCLUSION OF THE PUBLIC**

RESOLVED

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act 1972, as indicated below:-

<u>Description of Item</u>	<u>Relevant Paragraph</u> <u>Part 1 of the Schedule 12A</u>
Appeal by Mr SP	1

6 **APPEAL BY MR SP**

The Committee considered a rehearing on behalf of a Mr SP against his dismissal from the employment of the Council. The Council's procedure was followed.

The Human Resources Advisor to the Panel outlined the procedure to be followed, advising that although the original hearing had followed a joint investigation of incidents that had taken place at two establishments, with the agreement of Mr. SP, today's rehearing was in relation to incidents at one of the establishments only.

She advised that prior to the commencement of the meeting, Mr. SP's Union Representative had expressed concerns that, in the documentation circulated, some references had been made to the other establishment. In response to the concerns, she explained that because the original hearing had followed a joint investigation this had been unavoidable. However, she confirmed that the rehearing would only concentrate on the evidence for incidents at the establishment under consideration and that as this was a rehearing submissions would not be limited to half an hour.

Mr SP was in attendance at the meeting together with Mr G Gibbs (UNISON Representative), who presented the case on behalf of Mr SP, commencing with the opening statement.

Ms Kerrigan, the Council's representative then presented the Council's opening statement advising that the allegations to be considered were Mr SP's repeated failure to secure the establishment under consideration. She confirmed that any evidence submitted would refer to this only. She confirmed that although she would not be calling any witnesses, a Mr C D and a Ms JC would be available should the Panel wish to call them to clarify any issues which might arise as proceedings continued.

She commented that SP's failure to secure and alarm the building meant that the building was not secure and therefore could have resulted in difficulties with the insurance policy, in the event of a claim for fire or theft.

At this juncture, Mr Gibbs, Mr SP's Union Representative again expressed concerns that some of the evidence submitted to the Panel referred to two establishments. In response, the Chairman assured Mr SP and his representative that the Committee would only take into consideration the evidence which referred to the establishment under consideration.

Mr Gibbs then presented the case for Mr SP, confirming that the rehearing was solely to consider incidents which had occurred at the establishment under consideration.

He questioned whether not setting the alarm constituted gross misconduct, especially, as during the time of the alleged gross misconduct, Mr SP was on the premises and had not considered that not setting the alarm constituted gross misconduct. He also suggested that Mr SP was confused as to the allegations and what had been expected of him regarding lettings. He asked that the Committee take this into account and consider whether the allegations constituted gross misconduct or were more in terms of misconduct, for which a lesser sanction should be considered.

Following an adjournment, to enable the Committee to clarify whether the building would be considered secure for insurance purposes if the alarm was not set, the Committee requested that Mr CD be called to clarify the situation.

Mr CD confirmed that:

- a) he believed that if the school was not alarmed the school would not be insured.
- b) Mr SP would have been aware that the building needed to be locked and alarmed at the end of each letting. He was confident that this would have been reiterated in the final written warning letter to Mr SP dated 22nd July 2010. Following his written warning, Mr SP had had regular supervision meetings with Ms JC, who would have made it clear at each supervision meeting that the building needed to be alarmed and secured. Ms JC would also have explained the impact of Security and Health and Safety implications at each session.

There then followed an adjournment to enable clarification to be given on the further evidence. The meeting then reconvened to continue its deliberations in respect of the appeal.

Mr SP elaborated on the allegations against him and in particular explained the letting procedure and the pressure he considered he was under.

Following his submissions, the Panel requested that Ms JC be called to clarify some of the issues raised by Mr SP.

An adjournment took place to await the arrival of Ms JC.

Ms JC answered the questions put to her by the Committee and addressed issues raised by Mr SP. She also confirmed that during supervision sessions, which had taken place bi monthly with Mr SP since he had been issued with his final written warning, she would have discussed the procedures and expectations for lettings. She would also have expected any changes to any lettings to be discussed with her prior to them taking place, as she was the person responsible for lettings and would need to give authorisation to any requests for changes.

She confirmed the procedure which she would have explained to Mr SP and confirmed that she would have discussed this on a number of occasions and had also produced written guidelines in terms of the expectations required of Mr SP in order to clarify his responsibilities.

In response to questions from the Committee she confirmed that, as far as she was aware, the process for lettings and locking and securing the building had not changed in recent years.

The Committee adjourned to seek clarification from the legal advisor.

Following the adjournment both parties made their final submissions. Following their submissions the parties left the meeting, at which point the Committee continued its deliberation, arising therefrom, it was

RESOLVED

That the Committee determine that the allegation of gross misconduct by Mr SP is proven and that the decision to dismiss him be upheld.

The meeting ended at 3.25pm

CHAIRMAN

DDGA/4