

Regulation and Review Committee Panel

1 November 2016

Present: Councillor John Hunter (In the Chair)
Councillors P Earley, D McMeekan and L Spillard.

RQ21/11/16 Apologies for Absence

There were no apologies for absence received.

RQ22/11/16 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ23/11/16 Exclusion Resolution

Resolved that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ24/11/16 Appeal against dismissal

The committee met to consider an appeal lodged by Mr N against the level of disciplinary action imposed by the Chair of the Disciplinary Hearing which took place in September 2016.

Mr N was in attendance and accompanied by a Union representative to present the case that the sanction imposed was too severe for the initial management concerns which had led to suspension and other matters had been taken into consideration unfairly.

The Chair and HR advisor for the Disciplinary Hearing set out the background to the case and the reasons for the decision to dismiss Mr N from his position within the Health, Education, Care and Safeguarding Service. The information presented included a summary of the case, copies of the correspondence and notes from the various fact-finding meetings, supporting evidence, notes from the disciplinary hearings and copies of the appropriate procedures.

Mr N, his union representative and Members of the Committee were then given an opportunity to ask questions of the Chair and HR advisor for the Disciplinary Hearing. Mr N's representative asked questions in relation to the conduct of the disciplinary processes, the role of various managers in dealing with the cases which had led to the disciplinary action and Mr N's workload at the time and the management of Mr N.

Members of the committee asked questions in relation to the number of cases which are considered manageable; processes for support with workload and changing priorities; rules and procedures of internal management systems; the difficulties and problems referred to relating to the efficiency and effectiveness of the disciplinary process; and the number and frequency of formal support meetings.

The Chair and HR advisor for the Disciplinary Hearing responded to all the questions.

At this point in the proceedings the committee adjourned for 10 minutes for a break.

When the committee reconvened it heard representations from Mr N and his union representative who countered that whilst Mr N's practice could be considered flawed, had the fact-finding been conducted properly in April 2016 dismissal would not have been viewed as an appropriate response due to mitigating factors, which were explained to the meeting. Untrue allegations had been permitted to form part of the official papers for all the disciplinary processes even when their inaccuracy had been accepted; that it was believed that a correction of practice was initially considered an appropriate response but had been "elevated artificially" after other issues had been raised and responses to questions at the first and second disciplinary hearings; and that the acknowledged errors, delays and procedural flaws in the process and Mr N's progress at work were not considered as mitigation in determining the outcome of the disciplinary process and should have been.

The Chair of the Disciplinary Hearing, the HR advisor and members of the committee were then given an opportunity to ask questions of Mr N and his union representative. Questions asked related to Mr N's explanations for his actions. Mr N and his union representative provided responses to the questions.

The committee noted that the Chair of the Disciplinary hearing had acknowledged the issues relating to the investigation and had reconvened the disciplinary hearing after further investigation and that Mr N and his representative had agreed that they had had the appropriate opportunity to consider and fully respond to the allegations in the disciplinary hearing.

Both parties were given the opportunity to sum up their cases and then withdrew from the meeting to allow the committee to consider the representations and make a decision.

RESOLVED that the appeal against the decision of Chair of the Disciplinary Hearing held on 13 September 2016 to dismiss Mr N from his role within the Health, Education, Care and Safeguarding Service be rejected and the original decision confirmed as the committee considered the decision was fair, reasonable and followed the appropriate procedures.