

**CANNOCK CHASE COUNCIL**  
**MINUTES OF THE MEETING OF THE**  
**APPEALS AND COMPLAINTS PANEL**  
**WEDNESDAY 6 OCTOBER, 2010 AT 10.00 A.M.**  
**IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK**  
**PART 1**

PRESENT: Councillors                      Burnett, J. (Chairman)

|              |                |
|--------------|----------------|
| Davies, D.N. | Freeman, M.P.  |
| Dixon, D.I.  | Grice, Mrs. D. |

**6. Appointment of Chairman**

Councillor J. Burnett was appointed Chairman for the meeting.

**7. Apologies**

All Members of the Panel were in attendance.

**8. Declarations of Interests of Members in Contracts and Other Matters**

No declarations of interests were made.

**9. Exclusion of the Public**

RESOLVED:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraphs 2 and 3, Part 1, Schedule 12A, Local Government Act 1972 (as amended).



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**PART 2**

**10. Complaint**

Consideration was given to the Not for Publication Report of the Head of Housing (Enclosure 5.1 – 5.6 of the Official Minutes of the Council).

The Complainant and her representative attended the hearing to present the Complainant's case.

The Chairman invited all those present to introduce themselves and outlined the procedure to be followed at the hearing.

The Chairman asked the Complainant and her representative, Members and Officers to confirm their understanding of the procedure to be followed at the hearing. All parties confirmed their understanding of the procedure to be followed.

The Officer representing the Council then presented the Council's case by taking the Panel through the report. The Officer then called on a witness who is an employee of the Council to comment on the work that had been undertaken as part of the routine gas service which was carried out in April, 2010. The Officer explained that there was a legal requirement to carry out safety checks every 12 months, although the Council carried out their checks every 10 months. There were approximately 5,500 Council properties and an appointments procedure was in place to ensure every property was accessed. The Officer advised that as part of the service a tightness test on the gas supply was carried out both before and after heating appliances were tested with a copy of the certificate being provided to the tenant. He explained that the gas safety record dated 10 June, 2009 had been completed using a handheld device (PDA), and referred to the allegation that the safety record was a forgery and advised Members of the Panel that the engineer concerned had been employed by the Council's Contractor for 8 years and if the document had been forged legal proceedings could be taken against the engineer, the Contractor and the Council. He advised that 10% of all services carried out were audited by an independent auditor who checked the work which was undertaken.

The Officer representing the Council then called a further witness who is employed by the Council's gas contractor. He asked him what work would have been undertaken as part of the service to the heating system in April, 2010. The witness stated that each appliance

would be turned off and a gas tightness test carried out. The heating appliances would then be stripped and cleaned and then a final gas tightness test carried followed by a check to ensure the appliances were working correctly. The Officer asked if the engineer carrying out the service would check for gas leaks. The witness confirmed that they would although on this occasion there had been no reports of a gas leak. A copy of the most recent service certificate was then circulated to Members. The Officer then asked the witness how the engineer would check for gas leaks. The witness stated that a 10 millibar stabilization period followed by a 2 minute tightness test at 20 millibar would be undertaken to make sure there was no gas escaping. The Officer then asked the witness if there was any incentive for an engineer to find a gas leak. The witness stated that if an engineer identified a leak, they would receive an additional payment to trace and repair the escape. He then advised that the gas meter would have to be removed from the property and sent to a test station to determine if there was a problem with it.

The Complainant and her representative were then afforded the opportunity to ask questions of the Officer and witnesses. The Complainant's representative referred to both gas certificates which had previously been circulated and asked why one was handwritten and the other printed, and also asked if tenants normally received a copy of the certificate following completion. The witness stated that PDA's were used and occasional faults occurred therefore the engineer would then revert to using paperwork. He then advised that a copy of the certificate would be issued to the tenant following completion of the work. The Complainant's representative then referred to the certificate of April, 2010 and in particular the comment relating to the battery CO alarm being tested and asked why the comment was not included on the green copy. The witness was unsure although he stated that nothing else could legally be added later. The green copy of the certificate was then circulated to Members of the Panel to compare with the original copy.

Members of the Panel were then afforded the opportunity to ask questions of the Officer and witnesses. A Member asked if the appliance in question was 'at risk'. The witness (Officer of the Council) stated that if the engineer was not satisfied he would either carry out a repair or issue a 'warning notice', then turn off the appliance as he was required to leave the gas installation safe. He explained that the appliance was considered 'at risk' therefore a notice was issued and the appliance turned off until further work had been undertaken. A Member asked if the appliance 'at risk' would have caused the problem with the excessive gas consumption. The witness (Officer of the Council) explained that the defect identified on the appliance was the 2 outside radiants and 2 injectors which were partially blocked; therefore the appliance would have used less gas. A Member was keen to know if pressure testing on pipe work was carried out. The witness (Officer of the Council) advised that initial tightness tests included checking the incoming gas valve and the gas meter installations.

The Complainant was then afforded the opportunity to present her case. The Complainant's representative advised the Panel that the Complainant initially made a complaint to her gas supplier due to the high consumption of gas following 3 weeks away from her home. She advised that the Complainant had credited her gas meter with £30 and when she returned home, the meter was in debit when minimal energy should have been used. The Complainant went on to state that when she returned on 2 March the property was cold and the gas meter was in debit. She then contacted her gas supplier on 12 March who made checks and advised that £35 had in fact been used and advised her that there was no problem with the gas meter. She explained that she then received a

letter on 25 March from the Council advising her that the contractor would be visiting the property to carry out the cyclic gas safety check and she therefore felt that she did not need to contact the Council as an engineer would be visiting her property a week later on 12 April. The Complainant's representative then called on witnesses who were looking after the Complainant's property whilst she was away. The witness stated that the house was very cold and as a result she had tried to turn the gas on but it did not appear to be working. She stated that when the Complainant came back home the credit originally put in the meter had been used although she had been away for 3 weeks. She explained that she checked the meter with the Complainant and the dials did not appear to be working correctly even when all appliances were turned off.

At this point the Officer representing the Council asked if the gas supplier had visited the property and removed the meter for testing. The Complainant advised that no visit was made to her property. She then stated that she had been in regular contact with the gas supplier, and did not speak to the Council about a possible gas leak as she had not smelt any gas and was not aware of what the problem was or who was responsible for it. Furthermore, she advised that she had not used the appliance in question for 2 years. The Complainant's witness was asked if the gas was turned on at all in the time the house was visited when the complainant was away. The witness stated that she had tried to turn it on but assumed that the Complainant had forgotten to put credit in the meter. At this point the witness (Officer of the Council) advised the Complainant that there was a hotline which was available 24 hours per day; 7 days per week to report gas emergencies which offered a free service. He stated that he was confident that there was no gas escaping in the property and advised the Panel that if the appliance had not been used for 2 years then there would be no gas usage from it.

The Complainant's representative then continued to present the case. She stated that the dial was rapidly moving on the meter, although the witness (Officer of the Council) reiterated that the meter was not the Council's responsibility. The Complainant's representative then referred to the April visit to the Complainant's property made by the engineer who advised of the fault with the burners and issued a notice. The Complainant was told not to turn the appliance on. When asked if he thought this could have contributed towards the high gas consumption he did not appear to know. The Complainant's representative advised the Panel that following this the complainant was leaving her property for a few weeks and had made arrangements to log the reading on the meter each day. It was found that 50p per day had been logged and the dial had stopped rapidly moving. When the engineer visited the property again on the 12<sup>th</sup> he issued a warning and switched the gas off, and the dial had stopped moving. On the 22<sup>nd</sup> April the engineer visited the property to replace the old parts, but as new parts were not available he repaired the fire and switched it back on. At this point the gas consumption was back to normal and had been fine ever since. The Complainant's representative then referred to the service records and the additional comment in respect of the fan stating that the pulley had to be removed. She advised that the 2009 service record did not appear genuine and stated that the Complainant had not received a copy of this certificate.

At this point the Chairman requested a 5 minute adjournment.

On reconvening the hearing, the witness (Officer of the Council) circulated a copy of the service record in question.

The Complainant's representative then called on a further witness and asked her if she was familiar with the service records. The witness stated her previous occupation and explained the procedure she used in distributing of copies of service records, stating that a copy would be given to the homeowner. Reference was then made to the handwritten service record and the witness pointed out that if there was a comment made that the company did not wish the client to view, it would be changed accordingly.

The Officer representing the Council was then afforded the opportunity to ask questions of the Complainant and witnesses. The witness (Officer of the Council) referred to the removal of the pull chord on the fan and stated that any rooms containing decorative fans and a gas fire would require a specific spillage test; the engineer would then have a duty to record that a decorative fan was fitted regardless of its working order. He then referred to the note in the corner of the 2009 certificate stating that this was a note he had made and commented that he checked every certificate to make sure the relevant checks had been recorded. With regard to the cost of 50p per day recorded on the meter, he stated that this may have been due to a permanent pilot light being on the central heating back boiler.

Members of the Panel were then afforded the opportunity to ask questions of the complainant and witnesses. In response to a question asked by a Member the Complainant advised that she no longer had the problem with her gas supply following the visit in April by the engineer. A Member asked about Trading Standards being contacted. The Complainant's representative advised that if they were not satisfied with the outcome from the Hearing they had been advised that they could pursue it through the County Court. A Member asked the Complainant if her gas usage was high prior to her going on holiday. The Complainant stated that she noticed a high rise around December but thought she was using more gas due to the spell of cold weather. A Member asked where the fire was switched off from. At this point the witness (Officer of the Council) advised that the fire had been isolated independently.

Finally, both parties were afforded the opportunity to sum up their respective cases.

The Panel then deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

**RESOLVED:**

That, having considered all the information submitted, the Complainant's appeal be dismissed and the Officer's original decision be upheld.

### **Right of Appeal**

The Complainant was advised that If she was dissatisfied with the decision that the Panel had reached they could pursue the complaint through the Local Government Ombudsman.

### **Reasons for the Decision**

The Committee considered the representations made by the parties and all their witnesses including the written representations.

The Panel in summary were invited to consider the following:-

- (1) Had the gas safety check been carried out within the Council's time scales?

The Panel concluded that the gas checks had been carried out within the prescribed time scales.

- (2) Was the fault on the gas fire responsible for the gas use?

The Panel concluded that this was inconclusive to establish.

- (3) Were any reports made to the Council indicating a potential problem or gas leak?

The Panel concluded unanimously 'no'.

The Panel agreed that the complaint was not justified and compensation was refused.

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CHAIRMAN

(The meeting closed at 12.10 p.m.).