

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
APPEALS AND COMPLAINTS PANEL
THURSDAY 31 MARCH, 2011 AT 10.00 A.M.
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Allen, F.W.C. (Chairman)

Ansell, Mrs. P.A. Sutherland, M.
Davies, D.N.

1. Appointment of Chairman

Councillor F.W.C. Allen was appointed Chairman for the meeting.

2. 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 1, 2 and 3, Part 1, Schedule 12A, Local Government Act 1972 (as amended).

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
APPEALS AND COMPLAINTS PANEL
THURSDAY 31 MARCH, 2011 AT 10.00 A.M.
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 2

3. Complaint

Consideration was given to the Not for Publication Report of the Head of Housing (Enclosure 5.1 – 5.5 of the Official Minutes of the Council).

The Complainants attended the hearing to present their case.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Panel through the report.

The Appellant was then afforded the opportunity to ask questions of the Officer. A series of questions were read out by the Complainant which have been summarised. The Complainant asked why advice was not given to the previous tenants. The Officer commented on S179 of the Housing Act 1996 where there was a duty of local housing authorities to provide advice and assistance to any person within the District. The Complainant referred to the fact that the previous tenants were advised to stay in the property. The Officer commented that the previous tenants did not vacate the property on 30 November, 2010 as they had no other accommodation to move into to and it was also the tenants own decision whether to remain or vacate the property. The Complainant asked if the Officer agreed that the previous tenants were relying on the Council to offer them accommodation. The Officer commented that this was a matter for the previous tenants. The Complainant asked why mediation was not offered. The Officer stated that mediation was about advising on how a tenancy could be maintained where appropriate. It was also noted that with regard to accelerated possession orders, mediation was not usually deemed appropriate. The Complainant referred to the Council insisting that not enough notice was given regards the situation. The Officer advised the Panel that the previous tenants attended a homeless interview on 2 November and possession proceedings were already underway. She explained that the legal process for possession and the advice given to the previous tenants would not have made possession any quicker as it was the Court who would decide and determine the date for possession. The Complainant asked the Officer if she understood why it was not in their best interest not to receive rent, and did she think it was appropriate to be giving advice. The Officer stated no to the first question and then commented that the advice given to tenants was on the legal process only. The Complainant asked if Council Policy allowed free matters on specific policy. The Officer asked for clarification on this point and then asked if the Complainant was referring to matters on possession proceedings. She advised that in certain cases there may be a duty to provide advice to tenants; however all tenants would be advised to maintain rental payments. The Complainant asked if the Council had

enough emergency accommodation and how long it would be provided for. The Officer advised the Panel that this would depend on the number of homelessness cases applying to the Council at any one time. The Complainant asked if everyone evicted had access to a Council home. The Officer explained that every case was taken on its own merits and homelessness legislation and guidance would be followed. However, she advised in this particular case, there was no delay with the decision. The Complainant asked why correspondence was received from so many different Officers within the Council. The Officer explained that the complaints were going through the Council's Official Complaints Procedure and certain elements of the complaint would be dealt with by different Officers. The Complainant referred to the Council's Chief Executive's Office and contact details for the local MP. At this point the Senior Committee Officer advised Members that an email had been received from the Complainant and information had been supplied regarding the hearing, and contact details for the local MP provided. The Complainants raised concern that the Agenda had been forwarded to their rental property. The Chairman then asked if anyone was residing at the property. The Complainants advised that no one was residing there. The Complainant asked the Officer if he and his wife had been treated fairly as Council taxpayers. The Officer stated that they had. He asked the Officer if she respected the decision of a County Court Judge. The Officer stated that she did. The Complainant asked if advice was given to tenants to wait for a bailiff before they vacated a property. The Officer stated that advice was provided to tenants with regard to how they should appeal a possession order, or suspend a warrant but not to wait for a bailiff before vacating a property. The Complainant asked if concern was shared that the time the previous tenants spent in the property following the Court judgment could have resulted in damage to the property. The Officers could not comment on this.

Members of the Panel were then afforded the opportunity to ask questions of the Officers. A Member asked Officers about current contact with the former tenants. The Officer advised that the former tenants would have approached the Housing Options Team in the first instance. An interview took place on 26 October and possession proceedings were underway. She explained that the former tenant had work related issues and due to uncertainty with his employment and other issues, the property became unaffordable. The Officer explained that a formal homeless appointment was made on 2 November; however the landlord was contacted as part of the normal enquiries undertaken. In response to a question raised by a Member, the Officer clarified that the Complainants handled the possession in the correct way; however the tenants could remain in the property although the landlords would have had to evict using a court bailiff.

The Complainants were then afforded the opportunity to present their case. The Complainant stated that the Officer's report did not address their complaint and they had been treated with contempt and disrespect. He stated that the Council had delayed possession forcing them to apply to the Court for a warrant of eviction. He advised that the property was at risk from vandalism and on 28 November the Police were called to the property due to a disturbance by the former tenants. The Complainant advised the Panel on the outstanding debt and that the deposit initially put down by the former tenants was not accessible as it was still in the agent's name. He explained that he and his wife would not normally accept someone on benefits however in the short term it was acceptable. He stated that the Council should help tenants who were experiencing problems and then commented on the correspondence received from the Council.

The Officer was then afforded the opportunity to ask questions of the Complainants. The Officer asked the Complainant if he thought the Council had a duty to provide advice and assistance to the former tenants. The Complainant agreed that the Council did have a duty. The Officer asked the Complainant if the former tenants advised them of the date they would be vacating the property and whether they returned the keys. The Complainant advised that the former tenants neither advised them of the date nor returned the keys. The Officer asked the Complainant if the Council was named in the Court order as the matter was between the former tenants, Complainants and the Court. The Complainant stated that the Council was not named in the Court order. The Complainant stated that the former tenant had not vacated the property on the advice given by Officers, and that they had come to the Council for emergency accommodation. The Officer advised that it was the former tenants' choice whether to vacate or not. Even if they were offered a property it was the tenants decision to accept or not.

Members of the Panel were then afforded the opportunity to ask questions of the Complainants. A Member asked what had happened to the deposit the former tenants would have secured against the property. The Complainant advised that the tenancy was through a lettings agent who was still holding the deposit. A Member sought clarification that the Complainants had commissioned the letting agency who supplied a tenant on benefits. The Complainant indicated that this was incorrect and the former tenant was employed but then left his job to become self-employed. The job did not work out and so as a temporary measure the former tenant claimed housing benefit. The Complainant advised that he and his wife supported the former tenants and tried to help them. A Member asked the Complainants when they stopped dealing with the former tenants. The Complainant stated that they had supported them right up to when the S21 notice was issued. At this point the complainant issued a copy of the former tenants rent statement to Members. A Member asked the Complainants if this was their first time letting a property. The Complainants confirmed that they had been landlords for nearly 11 years.

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 to it, the appeal be dismissed and the Officer's original decision be upheld.

Reasons for the Decision

The Panel decided to uphold the tenancy Services Manager's original decision in that the Council did not contribute to the Complainants (landlords) losing rent revenue as a result of the Council's alleged advice to the tenants of their property.

The Panel considered both the written and oral representations made before the Panel.

The Panel suggested that the Complainants seek independent legal advice on this matter since their course of action may be directed against another party.

The Panel also noted that the complainants did not apply or pursue for a money judgement against the tenants in relation to the rent arrears.

CHAIRMAN

The meeting ended at 11.25 a.m.