

CANNOCK CHASE COUNCIL  
MINUTES OF THE MEETING OF THE  
APPEALS AND COMPLAINTS PANEL  
TUESDAY 19 MAY, 2009 AT 10.00 A.M.  
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK  
PART 1

PRESENT: Councillors                      Freeman, M.P. (Chairman)

Allen, F.W.C.                      Dixon, D.I.  
Davies, D.N.                      Mawle, D.L.

**65.            Appointment of Chairman**

Councillor M.P. Freeman was appointed Chairman for the meeting.

**66.            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 Paragraph 4, Part 1, Schedule 12A, Local Government Act 1972 (as amended).

**CANNOCK CHASE COUNCIL**  
**MINUTES OF THE MEETING OF THE**  
**APPEALS AND COMPLAINTS PANEL**  
**TUESDAY 19 MAY, 2009 AT 10.00 A.M.**  
**IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK**  
**PART 2**

**67. Complaint**

Consideration was given to the Not for Publication Report of the Head of Leisure and Major Projects (Enclosure 5.1 – 5.9 of the Official Minutes of the Council).

The Chairman, Members and Officers together with the Complainants introduced themselves.

The Chairman asked the Complainants, Members and Officers to confirm their understanding of the procedure to be followed at the hearing and that they were content for the procedure to be followed. All parties confirmed their understanding of the procedure and were content for it to be used.

The Officer representing the Council presented the Council's case by taking the Panel through the report. He outlined the relevant issues for consideration by Members and added that he had been appointed by the Chief Executive to present the Council's case. The Officer asked for Members indulgence with reference to a letter of 7 May, 2009 that had been submitted by the Complainants in respect of Wolverhampton City Council taking action under the Anti-Social Behaviour Act regarding high hedges and conifer trees. Although the letter did not form part of the Report the Complainants were advised that Members would be asked to consider it. The Officer referred Members to Annex 6 of the Report which was a letter from the Chief Executive advising the Complainants that it would be appropriate for the Appeals and Complaints Panel to consider the complaints, although they had not been through the Council's Official Complaints Procedure. He also stated that the Officers who were the subject of the complaints were on standby in case the Members wished to question them. However, Officer B was not present given that he was no longer employed by the Authority and had already addressed the complaints in a letter to the Complainants, and he did not feel it proportionate to have him available today.

The Complainants were afforded the opportunity to ask questions on the statement made by the Officer representing the Council. The male Complainant confirmed that he did not have any questions to ask of the Officer.

Members of the Panel were afforded the opportunity to ask questions on the statement made by the Officer. A Member queried whether there was any reason why one of the

Officers who was the subject of the complaints should speak to the Complainant when she was not at work. The Officer referred Members to Annex 7 of the Report, paragraph 4 and stated that the Complainants judgement of Officer A was that she had 'guilt written all over her face'. Although from Officer A's point of view, she was not guilty and clearly on route to an appointment at that time.

The Complainants were then afforded the opportunity to put their case. The male Complainant referred to a letter from Officer A which stated that she was the point of contact should he wish to communicate with anyone in the Council. He then pointed out that he received a letter from a Solicitor acting on behalf of the Council which was accusing him of harassing the Council. The male Complainant then went on to state that someone in the Council was spreading malicious gossip and trying to portray him and his wife as trouble makers and that there was a need to find out who this person was.

The male Complainant referred to a mediation agreement between the Council and the Complainants, and was keen to know who he should contact in the event that he could not speak with Officer A identified on the agreement, given that as part of the agreement the arrangements were that someone would contact him within 24 hours. Furthermore, two additional Officers had also been appointed in the event that he could not speak with the Officer A identified. The male Complainant claimed that he had contacted the Council to speak with the Officer A who he then saw later and should have rang him back. The male Complainant was of the opinion that the agreement should be 'stuck' to and not deviated from.

The Council's Principal Solicitor pointed out to the male Complainant that the Panel were not in receipt of a copy of the mediation agreement because it was not relevant to the consideration of the complaints. Although given that it had been raised by the male Complainant the Members of the Panel could request that a review of how the mediation agreement was working.

The male Complainant was still keen to know who had spread malicious gossip by saying that he and his wife were continually contacting the Council. The male Complainant also raised concern with the 'flippant' manner of Officer D when on a telephone call. At this point the Principal Solicitor referred to Annex B of the report. This contained a letter from the Solicitors Regulation Authority (SRA) which had investigated the complaint raised by the Complainants in connection with a letter from a Solicitor at the Council concerning the number of times the complainants were contacting the Council. It concluded that there was no unprofessional conduct by the Council. Similarly, it was also pointed out in the letter that the Legal Services Ombudsman (LSO) had been contacted and had reviewed the file of the SRA. The LSO had concluded that the SRA's response to the Complainants about the Solicitor at the Council was satisfactory.

The Officer presenting the report clarified the situation and confirmed who the Officer was, and that it was not Officer A that had raised the issue around the number of calls being made by the male Complainant. The officer stated that between February 2008 and December 2008 over 100 calls had been made, on average 10 per month and on occasions 10-11 per week.

The male Complainant claimed that he had written down and recorded a telephone conversation between himself and Officer C on 5 August, 2008 where he claimed he was

being 'goaded'.

At this point Members agreed to call in Officer C to answer questions. On the meeting reconvening Officer C stated that he was content with the letter that had been sent by the Solicitor in question to the Complainants, and then referred to the telephone conversation with the male Complainant concerning the letter. The male Complainant suggested that Officer C had knowledge of who had made the allegations during his conversation and was of the opinion that Officer C should have told him. The Officer stated that he did not consider it necessary to name the Officer who had made the allegations, and in any event he was out of the office on many occasions and another Officer could have visited the legal department at any time without his knowledge about this matter. The male Complainant was of the opinion that the letter from the Council's Solicitor was unnecessary and he wanted an apology. Office C then pointed out that the letter which had been received from the SRA and the LSO confirmed that the action taken by Officers had been appropriate following the receipt of the complaints. Following the telephone conversation and receipt of the complaints Officer C had had a meeting with Officer B.

At this point, Officer C left the meeting.

The male Complainant stated that he was frustrated with continually having to contact the Council to speak with Officer A and that he had tried to speak with her on more than one occasion. He also claimed that Officer B 'brushed his complaint under the carpet and was not prepared to meet with the Complainants.

The male Complainant stated that he had nothing further to say on the matters. The Officer acting for the Council was then afforded the opportunity to ask questions of the Complainants. The Officer stated that he had no questions to ask the Complainants.

Members of the Panel were then afforded the opportunity to ask questions of the Complainants. A Member pointed out that all letters received from the Complainants were signed by both of them and therefore the Council had addressed its correspondence correctly in writing to both of them. The Member also stated that the male Complainant was using perception to describe how Officer A was acting on the day in question when he saw her in Cannock. The Member stated that there was no evidence to support what the Complainants were stating and the male Complainant was relying on his perception. This also applied to the complaints and the telephone conversation with Officer D, all were based on the Complainants perception.

Finally, both parties were afforded the opportunity to sum up their respective cases. The male Complainant stated that he considered that it would be a good idea to record all telephone calls to the Council in the future. The Panel then deliberated in private calling on only the Council's Principal Solicitor and Secretary to the Panel for advice.

RESOLVED:

- (A) That, having considered all the information submitted to it, the Complainants appeal be dismissed against the following complaints made
  - (i) complaint against Officer A, be dismissed.

- (ii) complaint against Officer B, be dismissed.
- (iii) complaint against Officer C, be dismissed.
- (iv) complaint that as at 28 November 2008 the Complainants had not received notification of when the Appeals and Complaints Panel would be convened and the manner in which the Council investigates complaints, be dismissed.
- (v) complaint against Officer D, be dismissed.

### Reasons for the Decisions

The Panel gave careful consideration to all relevant facts, issues, representations and documents presented during the course of the hearing.

The Panel acknowledged the seriousness of the allegations and accordingly carefully tested the allegations against all the evidence presented and made available to the Panel.

The Panel was of the view that:

1. The allegation against Officer A of spreading 'malicious gossip' about the Complainants was not proven. It was alleged that on 23 June the Officer went into the Legal Department with the 'sole purpose of stirring up trouble and to spread malicious gossip' about the Complainants. The Panel noted that Officer A went on annual leave on 20 June and therefore was not at work on 23 June. Accordingly the Panel had to conclude that it would not have been possible for Officer A to have gone into the Legal Department as alleged.
2. The male Complainant and Officer A did see each other in Cannock Town Centre on 28 August. However the Panel was satisfied that no words were exchanged. The Panel did not find any evidence that Officer A acted in an unprofessional manner towards the Complainant as alleged. The Panel was firmly of the view that no satisfactory evidence had been provided which could lead them to reasonably conclude that Officer A would have 'guilt written all over her face'. The Panel was of the opinion that the male Complainant seemed to have based this comment on the mistaken understanding that Officer A tried to 'stir matters up in Legal' on 23 June and this had influenced his view and opinion of Officer A.
3. The allegation against Officer B that he 'brushed the complaint about Officer A under the carpet' was not proven. The Panel noted that in a letter dated 14 August 2008 written by Officer B he advised the Complainants that he was satisfied that their complaint about Officer A had been addressed – that was the complaint in the letter of 20 June (Annex 1 of the report) and referred to in the Complainants' letter of 5 August (Annex 3 of the report). The Panel was satisfied that Officer B had discussed the Complainants' complaint about Officer C with him and were content with the manner in which Officer B undertook his investigation and conclusion drawn and that there was no basis for the complaint. The Panel considered that the complaints were investigated by Officer B in accordance with

the Council's procedures and that the Complainants were advised of the outcome. The Panel did not consider that it was unreasonable having regard to all relevant circumstances for Officer B not to have had a meeting with the Complainants.

4. The allegation against Officer C that he tried to 'brush the complaint about Officer A under the carpet' was not proven. The Panel accepted that Officer C was not involved in the matters raised by the Complainants in relation to Officer A in their letter of 9 September (Annex 7 of the report). The Panel noted that Officer C was not Officer A's line manager and so in the Council's structure had no responsibility to investigate any complaint. However, the Panel acknowledged that Officer C was the line manager of the Solicitor who sent (with the approval of Officer C) the letter of 23 June to the Complainants (Annex B of the report). The Panel noted that the letter was referred to the SRA by way of complaint and that the findings and conclusions of the SRA confirmed that the nature of the letter was satisfactory given the circumstances. The Panel further noted that the Complainant then referred the letter to the LSO to complete an independent review. In a letter dated 16 September 2008 (Annex B of the report) the LSO stated that she took the view that the SRA's response to their complaint was satisfactory. The Panel considered that Officer C dealt with the Complainants in a professional manner and that the issues raised in the letter were justified and appropriate particularly in the light of the SRA's findings and conclusions.
5. With regard to the complaint that as at 28 November the Complainants still did not know when their complaint would be considered by the Panel and the manner in which the complaints were being dealt with, the Panel noted that the complaints against the Officers in question had been made in October 2008. The Complainants had received a letter from the Chief Executive on 16 December. In that letter he advised them that he had appointed the Head of Culture, Leisure and Major Projects, to prepare a report for consideration by the Panel and that the Officer was proceeding to prepare the report and collate all the relevant and necessary information. The Panel noted that various issues arose during this period which meant further time was required to address them. The Panel considered that the time taken to bring this matter before the Panel and the Council's responses were reasonable in the circumstances. The Panel was satisfied that the Complainants had been kept properly informed throughout the process.
6. The allegation made against Officer D that she was "flippant and sarcastic" on the telephone to the Complainant on 5 February 2009 was not proven. The Panel duly noted that Officer D accepted that she had advised the Complainant that she would find out for him what the Council was going to do about his neighbour. The Panel accepted the account given that Officer D was overheard by a colleague who was familiar with the matter and who informed her that the Council had decided to take no action against his neighbour. The Panel was satisfied, in the absence of any additional evidence to the contrary, that Officer D would have relayed this information to the Complainant. The Panel noted that there was no evidence of other complaints against her of a similar nature. The Panel was further satisfied that no satisfactory evidence had been provided which satisfactorily proved that Officer D acted in an unprofessional manner.

### **Further Action Required to be Taken**

The Panel requested that a senior officer at the Council carry out a review of the Mediation Agreement dated 19 February 2008.

### **Right of Appeal**

The Complainants were advised that If they were dissatisfied with the decision that the Panel had reached they could pursue the complaints through the Local Government Ombudsman.

---

CHAIRMAN