

# Section 22

# Appeals and Complaints

# Panel

## 22.1 STATUS

The Appeals and Complaints Panel is a committee of the Council with the purpose of:

- (a) hearing employee appeals in respect of Chief Officers of the Council, with the exception of the Managing Director, the Section 151 Officer and the Monitoring Officer for whom other national and local procedures take precedence;
- (b) hearing requests for review of decisions delegated to officers in respect of various Housing issues;
- (c) dealing with official complaints under Stage 3 of the Council's Complaints Procedure;
- (d) dealing with Ombudsman complaints where these cannot be settled by Officers in accordance with delegated powers.
- (e) dealing with requests for review of decisions made by Officers in the Urban Forestry Section in response to requests to carry out work to Council owned trees.

The Panel shall not hear any matters where the decision on the matter is delegated to another body within the Council. If a matter brought before the Panel includes such matters, or it becomes apparent during the hearing that it includes such matters, the Panel will refer that aspect of the matter to the appropriate body for decision.

## 22.2 MEMBERSHIP AND METHOD OF APPOINTMENT

The Appeals and Complaints Panel will comprise not more than 5 eligible Members of the Council, appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance. A Member should not hear an appeal or complaint in circumstances which might give rise to doubt as to their impartiality. Accordingly, a Member should not sit at the hearing of a case if he or she has any prejudicial or professional interest in the case or had involvement in the original decision against which an appeal or complaint is being made.

### **22.3 CHAIRMAN AND VICE-CHAIRMAN**

At each meeting of the Appeals and Complaints Panel the Chairman shall be appointed by and from the Members of the Council present.

### **22.4 ATTENDANCE BY COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

Council Procedure Rules 6(6) and 19 will apply.

### **22.5 FREQUENCY OF MEETINGS**

Meetings of the Appeals and Complaints Panel will be convened by the Managing Director normally within 30 working days following receipt of notice of an appeal or complaint except where statute requires otherwise e.g. homelessness appeals. The Managing Director will give notice in writing at least 10 working days in advance of the time and place of the hearing.

### **22.6 AGENDA**

Prior to the meeting of the Panel, the Managing Director will circulate to all Members on the Panel (and appellants or complainants where relevant) the Agenda and Reports to be considered.

### **22.7 PROCEEDINGS**

The Managing Director (or nominee) shall be the Clerk of the Panel.

The provisions of Schedule 12A of the Local Government Act 1972, as amended, in respect of exempt information will apply.

### **22.8 EXCHANGE OF DOCUMENTS**

At least 8 working days before the date of the hearing the parties will exchange statements and relevant documents which it is intended shall be presented to the Appeals and Complaints Panel. Copies of these documents should also be sent to the Managing Director.

### **22.9 FUNCTIONS AND PROCEDURE**

To undertake the following functions in accordance with the scheme of delegation and codes of conduct:

- to be responsible for and to hear matters in accordance with Annexes 1, 2 and 3 as appropriate to the appeal or complaint being considered it (the Panel).

### **22.10 DELEGATED POWERS**

The Appeals and Complaints Panel is empowered to deal with any of its functions and has delegated authority to resolve any appeal or complaint referred to it for determination by Council. In the case of equality of votes, the

Chairman shall give a casting vote provided he/she has already voted in his/her capacity as a member of the Appeals and Complaints Panel.

The Panel does **not** have the power or authority to award financial compensation to appellants and/or complainants.

## **22.11 OTHER MATTERS**

Where not already provided for above, the Council's Procedure Rules for the regulation of proceedings and business will apply.

**PAGE INTENTIONALLY BLANK**

# Annex 1

## Housing Related Appeals and Complaints

### 1. FUNCTIONS

The Appeals and Complaints Panel is responsible for dealing with appeals and complaints relating to any decision delegated to an officer in respect of various Housing issues, for example:

- breach of tenancy conditions
- neighbour complaints
- access to the Housing Register
- tenancy succession
- refusal of mutual exchange

### 2. PROCEDURE

The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:

- (a) If, following a request for an Officer review, the original decision is upheld, the applicant will be notified of the decision in writing and of his/her right, if still dissatisfied, to ask for a further review to be carried out by the Appeals and Complaints Panel.
- (b) The Panel shall be convened on receipt of a request for a further review.
- (c) The Head of Housing and Partnerships will submit a report to the Panel setting out the circumstances and Council's Policies.
- (d) The applicant shall be invited to attend to state his/her case and shall have the right to be represented/accompanied by a legal representative or any other person of his/her choice.
- (e) The applicant shall be provided with a copy of the Head of Housing and Partnerships' Report and will be requested to supply a statement of his/her case at least 8 working days prior to the meeting.

- (f) Members of the Panel may ask questions of all present as necessary and will deliberate in private. The Panel may call for legal or procedural advice at any time during its deliberations.
- (g) The Panel, having considered all the information, shall determine whether:
  - (i) to uphold the original decision or
  - (ii) to allow the appeal
- (h) If the appeal is allowed, the Panel shall determine what action should be taken.
- (i) The applicant shall be notified in writing of the decision and the reasons for the decision within 5 working days of the decision being made (or as soon as possible if this cannot be complied with). This must be within 56 days of the date on which the review was requested unless a longer period has been agreed in writing.

# Annex 2

## Complaints

### 1. FUNCTIONS

The Appeals and Complaints Panel is responsible for dealing with:

- (i) any complaint which has reached Stage 3 of the Council's Official Complaints Procedure where no resolution has been achieved at Stage 1 or 2.
- (ii) any complaint made to the Local Government Ombudsman that cannot be dealt with by Officers under delegated powers.
- (iii) any other matter relating to complaints referred to it by the Council.

### 2. PROCEDURE

The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:

Members of the Panel can call for information, documents and the attendance of Chairmen, Members and responsible Officers to give evidence.

The procedure for determining and adjudicating on Stage 3 complaints is set out below:

- (a) The complainant will be;
  - informed of the time, date and place of the meeting to consider his/her complaint.
  - invited to attend the meeting and will be given the opportunity to present his/her case.
  - informed that an Officer from the relevant Department will be given the opportunity to respond to the complaint.
  - invited to submit a written statement detailing the substance of the complaint so that Members of the Panel can be fully acquainted with the details.
  - sent at the same time as Members of the Panel a copy of the Agenda for the meeting which will include the report papers, the complainant's statement and statement prepared by the Managing Director or relevant Head of Service.

- (b) At the meeting the Chairman will make a brief introduction as to the purpose of the meeting and will then request the complainant to make any statement he/she may wish to make in support of his/her case. An appropriate Officer from the relevant Department will then be requested to do the same.
- (c) There will be the opportunity for witnesses to be called and questioned as part of the investigation of the complaint.
- (d) Each party will then withdraw to allow Members of the Panel to consider and adjudicate the complaint. Members may request advice on any point of law or procedure during their adjudication. Either party may be recalled to explain any points of fact relevant to the case. If it is necessary to recall one party, both parties should be recalled so that the matter is dealt with in the presence of both parties.
- (e) Having adjudicated, the Panel will recall both parties and the results of their adjudication will be announced. Complainants shall also be informed in writing of the decision together with reasons for the decision as soon as possible following the meeting.
- (f) The complainant will be advised that if still dissatisfied the next and final step is to complain to the Local Government Ombudsman.

The procedure for dealing with the outcome of any complaint made to the Local Government Ombudsman will be as follows:

- (a) The Managing Director (or nominee) will present a report on the complaint, inviting other Officers to provide supplementary information/evidence.
- (b) The Chairman will lead Members' questions, requesting any further information as required.
- (c) Members may request advice on any point of law or procedure during their adjudication.

**Note:** If a complainant indicates that he/she does not wish to attend a meeting of the Panel, or fails on two occasions to attend without reasonable explanation, the Panel shall proceed to deal with the matter in the absence of the complainant.



# Annex 3

## Council owned Trees

### 1. FUNCTIONS

The Appeals and Complaints Panel is responsible for dealing with appeals complaints relating to:

- (i) any decision delegated to an Officer in respect of various tree issues, for example;
- (ii) declining requests to carry out works to Cannock Chase DC owned trees and against the Council's set policies, or
- (iii) declining requests to carry out works to trees under the management and maintenance of Cannock Chase DC and against the Council's set policies;
- (iv) officers' decision to carry out works to Cannock Chase DC owned trees, or
- (v) officers' decision to carry out works to trees under the management and maintenance of Cannock Chase DC.

### 2. PROCEDURE

The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:

#### Review of Delegated Decisions:

- (a) If, following a request for an Officer review, the original decision is upheld, the applicant will be notified of the decision in writing and of his/her right, if still dissatisfied, to ask for a further review to be carried out by the Appeals and Complaints Panel.
- (b) The Panel shall be convened on receipt of a request for a further review.
- (c) The Head of Environment and Healthy Lifestyles will submit a report to the Panel setting out the circumstances and the Council's Policies.
- (d) The applicant shall be invited to attend to state his/her case and shall have the right to be represented/accompanied by a legal representative or any other person of his/her choice.
- (e) The applicant shall be provided with a copy of the Head of Environment and Healthy Lifestyles Report and will be requested to supply a statement of his/her case at least 8 working days prior to the meeting.

- (f) Members of the Panel may ask questions of all present as necessary and will deliberate in private. The Panel may call for legal or procedural advice at any time during its deliberations.
- (g) The Panel, having considered all the information in line with the Council's Urban Forestry Strategy, shall determine whether;
  - (i) to uphold the original decision or
  - (ii) to allow the appeal
- (h) If the appeal is allowed, the Panel shall determine what action should be taken in line with best practice and current legislation.
- (i) The applicant shall be notified in writing of the decision and the reasons for the decision within 5 working days of the decision being made (or as soon as possible if this cannot be complied with). This must be within 56 days of the date on which the review was requested unless a longer period has been agreed in writing.