

APPEALS PANEL 2

THURSDAY 30 OCTOBER 2015 AT 2.00PM

PRESENT: Councillors Bloxham (Chairman) and Graham

OFFICERS: Director of Resources
Revenues and Benefits Operations Manager

ALSO

PRESENT: Appellant

1. APOLOGIES FOR ABSENCE

Councillor Bowditch submitted his apologies. As only two Members had been present at the commencement of the meeting, the appellant was given the opportunity to wait for three Members to be present before proceeding with the hearing. The appellant agreed to the meeting proceeding with two Members.

2. DECLARATIONS OF INTEREST

There were no declarations of interest in respect of the complaint.

3. PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

4. COMPLAINT REGARDING COUNCIL TAX LIABILITY

Consideration was given to covering report RD.36/15 and supporting background papers regarding a complaint made about Council Tax liability.

The Chairman welcomed the appellant and introduced the Panel and the Committee Clerk. He outlined the procedure the Panel would follow in considering the Appeal.

The Chairman asked the appellant to summarise his appeal as clearly as possible and what outcome he hoped to achieve from the hearing.

The appellant stated that he had taken possession of the residential property, under a six month lease, on the 4 July 2014. The appellant had informed the Council on 20 November 2014 that he would be vacating the property within one month and also made a complaint to the Council regarding the landlord's behaviour.

The appellant confirmed that he vacated the property on 20 November 2014 and believed that his liability should be amended from 3 January 2015 and considered his liability in relation to Council Tax payments had ceased at that point. The appellant

added that the landlord had taken the keys to the property from him on 3 January 2015; therefore, he was no longer able to access the property.

The appellant informed the Panel he had supplied a copy of his tenancy agreement for his new property (not the property referred to in the complaint) to the Council in November 2014. It had been photocopied, but not returned to him along with other documents submitted during the complaints process.

In response to a Member's question, the appellant advised the Panel that his final rent payment for the property had been made on 18 December 2014, which meant that he had overpaid on the property as payment made had been for the full month.

A Member asked the appellant for further details regarding the Attachment to Earnings indicated in the report. The appellant responded that the total amount of the attachment was significant and made it very difficult for him to live on what remained from his earnings. The appellant added that not all of the Attachment to Earnings related to the liability which the complaint was based on; attachments had been added by other organisations.

The appellant had accumulated other debts with the Council which were also deducted from his wages through the attachment. He was not able to identify the amount deducted from his earnings regarding the liability relating to the complaint as all the deductions made by the Council were taken collectively and referred to merely as "Council" on his Attachment notification. The Chairman advised the appellant that the Panel only had the remit to address the complaint that had been presented to them via the report and appendices circulated to them prior to the meeting.

The appellant acknowledged he understood that the Panel only had the authority to determine the complaint relating to the property and no other aspect of the deductions to his earnings. He explained the circumstances relating to the accrual of other debts with the Council and expressed the view that the Council's attitude towards and treatment of him had been inappropriate and unhelpful. He felt the Council had been too quick to apply the Attachment to Earnings and had not fully taken into account his circumstances.

A Member asked the appellant to clarify what part of the Council Tax liability he was contesting. The appellant responded that the Council had required payment of Council Tax for the property up to the 29 January 2015, as he had vacated the property on 3 January; he felt he should not be responsible for the Council Tax from that date. As a result of not living in or being able to access the property, the appellant did not believe he was responsible for the Council Tax at the property.

The appellant informed the Panel that the landlord of the property had stated that the lease for the property ceased on 4 February 2015; however, the termination date had been moved back to the 29 January 2015 as new tenants had taken possession of the property. The appellant disputed the lease termination date and asserted the date of the lease ending had been 3 January 2015.

The appellant informed the Panel that he and his landlord had undergone a legal process regarding payments relating to the property which had resulted in them being advised to undergo mediation; however, this had not yet taken place.

The Chairman asked the appellant what solution he was seeking to his complaint. The appellant responded that he wished to be reimbursed for the Council Tax payment covering the period 3 January 2015 to 29 January 2015. In addition he wished for his other outstanding payment to the Council to be frozen, and a final bill sent to him to enable an agreement over the payments made to meet this debt.

In response to Members questions the appellant confirmed the following;

- He had verbally informed the Council that he was leaving the property referred to in the complaint on 20 November 2014, but had not provided this information in writing. When informing the Council that he intended to vacate the property, he did not provide a definite date.
- He had moved into different property from that which was referred to in the complaint on 14 November 2014
- His lease agreement for the property referred to in the complaint had been for a period of six months.
- He disputed that the lease agreement for the property referred to in the complaint ended on 4 February 2015. He felt that the lease was terminated on 3 January 2015 and that his liability for Council Tax on that property also ended on 3 January 2015
- He agreed with the chronology and events listed in the timeline provided with the report to the Panel.

The Chairman reiterated that the Panel's remit only covered the specific complaint that the appellant had in relation to his Council Tax liability for the property, however, the Panel would ask Officers if they would write to the appellant regarding the additional matters he had raised in an attempt to have them resolved. He advised the appellant that he would be informed of the Panel's decision in writing.

The appellant left the hearing at 2.49 pm.

The Panel invited the Director of Resources and the Revenues and Benefits Operation Manager to the hearing. The Chairman summarised the appellant's complaint and asked officers to explain the appellant's liability regarding the Council Tax on the property in the complaint.

The Director of Resources advised the Panel that the lease the appellant had taken on the property ceased on 3 February 2015; this had been confirmed by letter from the appellant's landlord. A Member expressed concern that the landlord had taken the appellants key's to the property on 3 January 2015, yet the appellant remained liable for the Council Tax until 29 January. The Revenues and Benefits Operation Manager stated he understood that the appellant had returned the keys to the landlord himself on 3 January 2015.

In response to a Member's question, the Director of Resources explained that when a tenant vacated a property prior to the termination of the lease the tenant was still liable for the Council Tax, but at a reduced rate (50%) as the property was deemed to be empty. The liability for the Council Tax payment was stipulated in legislation, and the Council had no power to write the debt off. He added that the appellant's returning of the keys to the landlord was not a mitigating factor in relation to the legislation, as the appellant had signed a lease and had therefore assumed liability for the payments.

A Member asked when the liability for the Council Tax transferred to the landlord following a tenant's vacating a property. The Director of Resources advised that the tenant would remain responsible for the Council Tax payment until the end of the lease period at the reduced rate, at the end of the lease period the liability would then transfer to the landlord.

The Revenues and Benefits Operations Manager reminded Members that the landlord had reduced the appellant's liability for the Council Tax payment by several days as new tenants took up a lease on the property which commenced on the 29 January 2015. This meant that the appellant had not been required to pay the Council Tax for the full term of his lease which had been due to end on 4 February 2015.

A Member expressed concern that the level of Attachment on his earnings would potentially cause the appellant financial hardship. The Revenues and Benefits Operation Manager advised that the amount collected in an Attachment was a statutory percentage which covered payments to all the debtors, therefore if the number of debtors increased; the payment against each debt was reduced proportionally.

The Revenues and Benefits Operation Manager informed the Panel that the appellant had in fact paid the debt in relation to the liability that was the basis of the complaint to the Panel. He explained that the deduction now attached to the appellant's earnings by the Council related to other liabilities.

The Chairman asked the Officers if they would write to the appellant outlining the position regarding his liabilities, outwith the complaint, to ensure that the appellant had clarity regarding his situation, which the Officers agreed to do.

The Director of Resources and the Revenues and Benefits Operation Manager left the hearing at 3.16 pm

The Panel then gave detailed consideration to written and verbal evidence that had been presented to them, prior to and during the hearing.

RESOLVED – That the Panel:

1) did not uphold the complaint and were unanimously of the opinion that the Council and its Officers had acted professionally and in accordance with the information given and the relevant legislation governing tax collection.

2) felt it was clear that the appellant had made a commitment through signing the lease on the property and therefore had assumed liability for Council Tax for the duration of the lease.

[the meeting ended at 3.40 pm]