

APPEALS PANEL NO. 2

TUESDAY 29 JANUARY 2013 AT 10.00AM

PRESENT: Councillor Harid (Chairman) Councillors Bell and Bloxham

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. 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.

3. APPEAL REGARDING REMOVAL OF VEHICLE

Consideration was given to a complaint regarding the removal of a vehicle from Warwick Road, Carlisle.

The Chairman introduced the Panel and outlined the purpose of the meeting and procedure to be followed. He confirmed that all those present had seen the relevant documentation, copies of which had been circulated.

The appellant introduced himself to the Panel.

The Chairman asked the appellant to summarise the complaint as clearly as possible and the outcome he hoped to achieve. The appellant explained the circumstances and background to the complaint. The appellant produced evidence which confirmed that he was registered with the DVLA as the keeper of vehicle and that his vehicle was taxed, insured and had up to date MOT. He also stated that the vehicle had a Carlisle City Council issued Residents Parking Permit on display in the vehicle. The appellant had not contact the City Council as he had believed that he would be able to remove the vehicle within seven days and comply with the notice that had been placed on the vehicle. However, there had been two attempts to remove the vehicle by the City Council before the end of the seven day period. He agreed that the vehicle was dirty because it was parked under trees had been left for some time because he was out of the country but he did not feel that the vehicle was in poor condition.

The appellant felt that there had been insufficient attempts to identify him as the vehicle's registered owner. He explained the reasons for the scrapping of the vehicle and that he had felt this was the only option open to him due to the penalty costs he would have incurred if the vehicle was removed by the City Council.

The Panel clarified a number of points with the appellant in particular the circumstances regarding the actual removal of the vehicle and the notice period as set out within the notice which had been attached to the vehicle.

The appellant agreed that the Panel had understood the nature of his complaint and the outcome that he hoped could be achieved.

The appellant left the hearing.

The Panel invited a Director and Officer from the Community Engagement Directorate into the meeting.

The Officer explained that an investigation had been undertaken to identify the vehicle's registered keeper using the options available to the Council. The Council had been unable to identify the vehicle's owner and had placed a notice on the vehicle informing the owner that the vehicle had to be removed within seven days or the Council would do so. She added that, under the relevant legislation, the Council did not legally have to place a notice on the vehicle but did so to try and locate the owner. She explained that the previous method of checking the DVLA database was only available after the vehicle had been uplifted and relied on the information supplied by Cumbria Constabulary. She informed the Panel that the length of time for an uplift of a vehicle depended on the vehicle in question and the nature and number of the enquiries made regarding the vehicle.

The Officer reported that a further inspection of the vehicle had been carried out and the officer noted that the passenger side window had been tampered with; this resulted in the decision to uplift the vehicle before the end of the seven day period to avoid further damage to the vehicle.

The Panel thanked the Officers for their input. They then left the hearing.

The Panel then considered the evidence that had been presented to them, prior to and during the hearing. In considering the options available to them the Panel asked for legal advice before making the following decision.

RESOLVED – 1) The Panel identified, with concern, some gaps within the City Council's procedures for removing abandoned vehicles and requested that the procedures should be reviewed and updated. The procedures should also include the requirement for a written response from the Cumbria Constabulary and DVLA when information is requested from them and the use of the Council's own internal Residents Parking Databases.

The completed review should be circulated to the Members of the Appeals Panel 2, the Director of Community Engagement and the Environment and Transport Portfolio Holder.

2) That it be recommended to Council that the complainant receive a payment of £200 to compensate him for any inconvenience caused as a result of any maladministration on the part of the Council which contributed towards the loss of his vehicle.

3) That the Chairman would write to the appellant advising him of the final decision of the Panel including information regarding the Local Government Ombudsman.

[The meeting ended at 12.15pm]