



Appeals Panel 2

Date: Monday, 06 March 2023

Time: 10:00

Venue: Slupsk Room

Present: Councillor Mrs Marilyn Bowman, Councillor Raymond Tinnion

Also Present: Complainant
Complainant's Representative
Appellant
Appellant's Representative

Officers: HR Officer
Senior Lawyer
Principal Health and Housing Officer
Housing and Public Health Officer
Head of Neighbourhoods
Operations Manager

AP2.01/23 APPOINTMENT OF CHAIR

RESOLVED - That Councillor Mrs Bowman be appointed Chair of the Appeals Panel 2.

AP2.02/23 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Alcroft.

AP2.03/23 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

AP2.04/23 PUBLIC AND PRESS

It was agreed that the items in Part A be dealt with in public and the items in private be dealt with in Part B.

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 to the 1972 Local Government Act.

AP2.05/23 COMPLAINT AGAINST - ENVIRONMENTAL SERVICES

(Public and Press excluded by virtue of Paragraph 1)

The Chair welcomed everyone to the meeting and introduced the Panel and Officers.

The Chair invited the Complainant to tell the Panel about their complaint.

The Complainant's Representative noted that the agenda document pack had not included three letters to the Council which had detailed the Complainant's complaint. He explained that the three documents were vital for the consideration of the complaint.

The Chair agreed for the three letters to be circulated to the Panel and adjourned the meeting to allow for full consideration of the information.

The meeting adjourned at 10:11 and reconvened at 10:41.

The Complainant's Representative stated that they felt that the process had not be followed correctly. The initial complaint letter sent in October 2022 had not been dealt with as complaint, the Complainant felt that the response was inadequate, generic and did not make a reference to the next stage in the complaints process. He reminded the Panel of the requirements of the Council's Complaint's Policy.

The Complainant's Representative drew the Panel's attention to the letter dated 19 December 2022, which set out the request to move to Stage 3 and the three main points of the complaint:

- The authority failed to recognise that the Complainant could have been considered a vulnerable adult, despite having been given prior information;
- The authority failed to apply Enforcement Guidance 2.19 to the case, this was more appropriate than the 2.18 which was used;
- The authority refused to concede that its failure to deal with the issues raised by the Complainant in an appropriate manner, resulted in the Complainant being issue with a retaliatory notice to terminate her tenancy by her landlord.

The Complainant's Representative highlighted some confidential case notes which had not been released to the Complainant and questioned what was being hidden.

The Chair summed up the Complaint, which the Complainant's representative agreed, and asked the Complainant what outcome they would like.

The Complainant's Representative stated that the Complainant would like an acknowledgment that the authority's failure to issue a repair notice on the landlord in a timely manner had resulted in the retaliatory notice and an apology. The Complainant's Representative surmised why the authority had not taken action on the landlord, who was known to the Representative in his role.

The Chair thanked the Complainant and the Complainant's Representative for attending the meeting and advised that a letter informing them of the Panel's decision would be sent within 15 working days.

The Complainant and the Complainant's representative left the meeting at 10:59.

Consideration was given by the Panel as to which Officers they wished to speak to in order to clarify any issues relating to the complaint.

The Principal Health and Housing Officer and the Housing and Public Health Officer were invited to attend the meeting at 11:11.

The Chair outlined the complaint, she had been disappointed that the report had not included the Complainant's three letters of complaint or any of the correspondence between officers and the Complainant. The Chair informed the Officers that the Panel would hear their side of the case and then adjourn until after consideration of item B.2 at which point the Officers were to provide a copy of all of the correspondence and the relevant Guidance to the Panel for their consideration before they made a decision.

The Chair asked the Officers to respond to the complaint.

The Principal Health and Housing Officer gave an overview of the complaint. She acknowledged that the Team had formally been made aware of the Complainant's vulnerable status in the letter received in October, as a result of this Officers acted within the Policy guidelines. She clarified that the Council were regulators and should not be acting as remediators between tenants and landlords when relationships break down, this is what had happened in this case.

Referring to the vulnerable status of the Complainant, the Principal Health and Housing Officer explained that vulnerability was defined in legislation with regard to property repairs, when dealing with vulnerable people Environmental Health signpost to other services or raise safeguarding issues when required. During the inspection to the property it was evident that the Complainant was anxious, however, it was not unusual for people to be anxious during the inspections.

The Principal Health and Housing Officer detailed the issues they had encountered with the landlord and the action they had taken, she explained the background to the confidential note, which was non disclosable, and gave an overview of issues regarding access to the property and lack of communication from the Complainant.

The Principal Health and Housing Officer set out the training that officers undertook and the options available for individuals who needed further support. She confirmed that the initial informal approach had been the correct approach due to the low level repairs needed, which were categorised level as 2 hazards. The Complainant was not classed as vulnerable under the legislation in relation to the repairs that were required in the property. She understood that several small repairs in one property could impact a person's physical and mental health, however, the first step was always to engage with the landlord and educate. The landlord had been given three months to undertake the repairs, when they had not been completed after four months a case review was undertaken. At this stage the electrical safety notice had not been received for the property, this resulted in a formal notice being issued to the landlord.

If a retaliatory notice had been issued following the formal notice from the Council then it would have given the Complainant a further six months in the property, however, this would be six months in a property that still required the repairs. The Council notice did not prevent the retaliatory notice as the notice was served because the property was being sold. The property would be sold and the new owners would inherit the improvement notice.

The Chair thanked the Officers for attending and asked them to provide the additional information following the consideration of the next agenda item.

The Officers left at 11:53.

The meeting adjourned at 11:54 and reconvened at 12:25.

AP2.06/23 APPEAL AGAINST DISMISSAL

(Public and Press excluded by virtue of Paragraph 1)

The Chair welcomed everyone to the meeting and introduced the Panel.

The Chair asked the Appellant to set out their side of events and ways in which they believed that the decision for dismissal was incorrect.

The Appellant addressed the Panel setting out their feelings with regard to the support offered by the Council, his personal circumstances and support he was receiving privately. He detailed his length of service and past history with the authority. He was disappointed in the circumstances as he loved his job and wanted to work.

The Head of Neighbourhoods detailed the history to the dismissal, the impact of the absences, the costs associated and the reasons why the decision was reached to dismiss.

The Head of Operations responded to the Panel's questions with regard to regular meetings with the Appellant which was disputed by the Appellant.

The Appellant and the Head of Operations summed up for the Panel.

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter. The Appellant and the Appellant's Representative returned, and it was

RESOLVED - That Appeals Panel upheld the decision of dismissal.

AP2.06/23 COMPLAINT AGAINST - ENVIRONMENTAL SERVICES

The Principal Health and Housing Officer provided the Panel with a copy of all email correspondence between the Council, the landlord and the Complainant, records of telephone conversations, Housing Health and Safety Rating System Enforcement Guidance Housing Act 2004 (HHSRS) and the Council's Enforcement Guidance.

The Panel considered all of the information provided and put further questions to the Principal Health and Housing Officer.

The Principal Health and Housing Officer clarified the vulnerability categories with regard to hazards and the signposting /safeguarding offered to those who needed additional support. She explained that the hazards in the property were classed as a low category, including the staircase which was structurally safe. Referring to the use of 2.18 in the guidance over 2.19, the Principal Health and Housing Officer stated that the 2.19 would be used for an immanent risk, which the Complainant was not. She agreed that the formal notice could have been issued sooner, however, this would not have prevented the serving of the retaliatory notice. She reiterated that it was best practice to have an informal process where possible to engage and educate the landlord.

The Principal Health and Housing Officer left the meeting at 13:56.

The Panel then considered all the evidence presented to it prior and during the hearing and:

RESOLVED – That the appeal not be upheld on that grounds that in dealing with the complaint Officers had complied with the requirements of relevant Council policy and legislation:

- The authority failed to recognise that the Complainant could have been considered a vulnerable adult, despite having been given prior information;
The Council had dealt with the Complainant as a vulnerable adult and the Panel noted that the Complainant was not classed as vulnerable within legislation with regard to the repairs in the property.

- The authority failed to apply Enforcement Guidance 2.19 to the case, this was more appropriate than the 2.18 which was used;
The Council had used the correct section of the Enforcement Guidance as the Complainant was not at imminent risk.

- The authority refused to concede that its failure to deal with the issues raised by the Complainant in an appropriate manner, resulted in the Complainant being issued with a retaliatory notice to terminate her tenancy by her landlord.
The Council had dealt with the issues raised in a timely manner and the serving of the formal notice would not have prevented the issuing of the retaliatory notice by the landlord.

The Meeting ended at: 14:15