

Appeals and Complaints Committee

A meeting of the Appeals and Complaints Committee was held on Thursday 1st June 2006.

Present: Councillor Brown (Chairman), Councillors Coombs, Fletcher and Womphrey

Officers: A. McNamee, M. Henderson, S. Johnson (LD); D. Hurwood. E. Hall (R).

Also in attendance: Complainant

Apologies for absence were submitted on behalf of Councillors Jones, Lynch and Patterson.

221 Appeals and Complaints Committee – Procedures for Meetings

All those present were informed of the procedure for the meetings of the Appeals and Complaints Committee.

RESOLVED that the information be noted.

222 Exclusion of Public

RESOLVED that under Section 100 (A) of the Local Government Act 1972 the public be excluded from the meeting for the whole of the item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A of the Act.

223 Business Rates Complaint

Consideration was given to a complaint by the owner of a local business that related to his business rates account. The complainant had asked the committee to consider three matters:-

- The way in which officers investigated and responded to a complaint that he had made;
- The way his business rates account had been referred to the bailiff for collection;
- The Council's general policy of referring accounts to the bailiff.

The Complainant made representations to the committee. He explained that he considered that the Council had an oppressive approach to debt collection and instigated bailiff action at an earlier stage than was necessary. He had expected a more sensible attitude and an appreciation by the Council of pressures faced by local businesses.

He explained that bailiffs had arrived at his property without warning and the additional cost this had caused had, in his opinion, been exorbitant. The complainant questioned the Council's use of private bailiffs. When he had approached the Council, to make a payment, in order to prevent further action by bailiffs he claimed he had been called irresponsible and had generally been stonewalled. The complainant was of the opinion that the Council looked to punish rather than collect when dealing with such matters. He felt that the Council did not adhere to the slogans it used and suggested that officers had dealt with him differently to others, because of his race.

The complainant also referred to cost he had incurred associated with him appointing an agent, who subsequently secured a reduction in the rateable value on his business premises. The complainant indicated that he

considered that the Council should refund the costs he had incurred by appointing the agent.

In addition to the complainants verbal representations the Committee had previously been provided with copies of written representations.

Members of the Committee and officers were then given the opportunity of asking the complainant questions.

Members asked if the complainant could be more specific about the alleged racism and could he provide names of individual officers involved with this and the name of the officer who had referred to him as irresponsible. The complainant was unable to provide names of officers and indicated that perhaps racism was too strong a word, but he did consider the behaviour of Council officers to be inappropriate and that they had demonstrated to him an unwillingness to resolve the problem.

Officers from the Council's Taxation and Administration Service then made verbal representations to the Committee. Officers referred to written information, that had previously been provided to the Committee.

Officers explained that all legislative procedures had been followed in referring the complainant's 2005/2006 account to the bailiff. It was explained that regulations required the Council to issue a reminder notice when an instalment was not paid. If the account was brought up to date after the reminder, but another instalment was missed during the year, there was no requirement to issue a second reminder. The right to pay by instalments was withdrawn at this stage and the whole balance remaining on the account to the end of the financial year became payable, and a final notice issued. Only payment of the full amount would then avoid the issue of a summons and liability order application.

The complainants right to pay by instalments was withdrawn on 9th June 2005 and he was issued with a final notice the same day.

In June 2005 the complainant was advised that action would be taken to obtain a liability order, but no further action would be taken after that, provided the complainant adhered to a payment arrangement. It was explained that issuing a summons and applying for a liability Order were the most appropriate ways of securing the right to take recovery action, should further instalments be missed. The Committee was informed that the complainant did not adhere to the arrangement.

With regard to the allegation of racism Members were informed that officers had received customer care and diversity training and were aware of different cultures and the Council's diversity policies. They had dealt with the complainant's situation in the same way as they would deal with any other business rates account that fell into arrears.

Members were informed that the bailiff firm contracted to the Council to execute liability orders for unpaid business rates was required to follow a Code of Practice when dealing with customers together with the Government's National Standards for Enforcement.

Members were informed that the rateable value of a property was determined by the Valuation Office Agency which operated independently of the Council.

At this point Members and the complainant were given the opportunity of asking questions of the officers.

In response to Members' questions Officers provided the following information

- The letter, sent to the complainant on 3rd October, informing him of bailiff action, if the account was not brought up to date was not a statutory requirement and bailiff action could have been taken without sending it. The matter was not referred to the bailiff until 11th November.
- The complainant had missed payments for August, September, October and November 2005.
- Bailiff fees were set down in a schedule to the Non Domestic (Enforcement and Collection) (Local Lists) Regulations 1989. A check had been undertaken of the fees submitted in respect of the complainants account for 2005/2006 and the fees were found to be correct and properly charged.
- The Council had received complaints about the bailiff, however, it was considered that this was inevitable given the nature of the work and there had been no complaints about the bailiff being heavy handed.
- Referral to the bailiff did not result in an immediate removal of goods, but it was necessary to have it in place in cases where there was continuing default on arrangements to pay. Members noted that the policy of referral was governed by national guidelines.

Officers, followed by the complainant, were then provided with the opportunity of making a final statement. Both summed up the points they had previously made.

At this point the complainant and officers, other than those from Law and Democracy, left the meeting room.

Members discussed the written and verbal evidence they had been provided with and, with regard to a particular issue, agreed that further information was required from the officers. Therefore, officers and the complainant were invited back into the meeting room.

In response to additional questions from Members, the Committee was provided with the following information:-

- Contact between the complainant and the Council was made in June 2005, and shortly afterwards an arrangement to pay by instalments was offered, with effect from 1st July 2005.
- The collection of business rates was based on 10 monthly instalments, up to January of each payment year. The complainant's payment period had been extended to March.

The complainant and officers, other than those from Law and Democracy, left the meeting room.

Members discussed all the information they had received and agreed a response to the complaints:-

- **The way in which officers investigated and responded to a complaint that he had made;**

Racism

Members were satisfied that no evidence of racism had been presented to the Committee and noted that the complainant had accepted that the term racism was too strong a description of what he had encountered. Members noted that this allegation had been investigated and agreed that officers had followed normal procedure.

Rateable Value

Members noted that the determination of rateable value was a matter for the Valuation Office Agency (VOA), which was a government agency independent of the Council. In view of this the Council could not be held responsible for costs incurred as a result of decisions made by that agency. The Committee suggested that the complainant should contact the (VOA) on this issue.

- **The way in which the complainant's Business Rates Account was referred to Bailiff for Collection.**

The Committee was satisfied that officers followed internal and national guidelines for referral to the bailiff company.

The Committee was satisfied that further notification sent on 3rd October 2005 (which was not required by law) to the complainant gave him warning of bailiff action if the arrangement to pay was not brought up to date. The account was not passed to the bailiff until 11 November 2005.

The Committee were satisfied that the complainant had had opportunity to make arrangements with the Council prior to this, but failed to keep to the arrangements made in June 2005 or contact the Council during the months August to November.

- **The Council's general policy of referring accounts to the bailiff.**

The Committee was satisfied that the general policy of referring accounts to the bailiff was correct and properly adhered to.

The Committee noted that the Council were duty bound to collect rates in an expedient manner and the referral to the bailiff, in accordance with policy, was the most appropriate way of achieving this.

The Committee found that the system of special arrangements was an appropriate way of offering rate payers an opportunity to avoid bailiff action. In this case it was found on the facts that the complainant received a letter in June 2005 informing him of the special arrangements made in relation to his account and the Council had offered some flexibility by requiring settlement of the account by 1st March not 1st January as would ordinarily be the case.

RESOLVED that the complaints be not upheld for the reasons stated above.