

Date: 5 March 2012
Our Ref: 7619657
Your Ref:
Enquiries: Peter Swingler
Phone: 020 7974 5644
Fax: 020 7974 5589
E-mail: complaints@camden.gov.uk
Web site: www.camden.gov.uk/complaints

Camden Street
London NW1 0HH By email

Dear Resident

I am writing to give my decision on the complaint you have made on appeal to the Chief Executive concerning the Housing and adult social care service (HASC).

Your complaint against John Wheatman

I have been asked by the HASC to escalate to my office a complaint that you had made about a perceived lack of responsiveness by a named housing officer, John Wheatman (Interim Team leader M&E Repairs and Improvements), to various communications that you addressed to him about a continuing problem with a loss of hot water to your flat and others on the Curnock estate.

Your complaint about the lack of hot water and the response of the HASC

During the course of my consideration of that complaint you have pursued with the HASC, a ward member Councillor Roger Robinson and the Lead Member for Housing, Councillor Julian Fulbrook, a much wider complaint and campaign on behalf of residents.

Investigation

I have carried out the review of your complaint. My investigation included an assessment of your correspondence and the records held by the HASC. I have obtained additional information from the HASC. I have interviewed Mr Wheatman.

The history of your complaint

I do not think it is necessary for me to set out a detailed chronology in order to reach a decision on your complaint. As you may recall I previously dealt with a complaint about the situation on the estate up to the period May 2011. I refer you back to the Review level complaint reply of 25 May 2011 reference 6834012 for the detailed background position on the boiler maintenance issues at that time. At that time you had directed complaints against Mr. Michael and John Stow of the HASC).

I note that you acquired a leasehold interest in your flat since 24 November 2000.

I have taken account of a number of communications passing between you and housing officers including the following;

Your email 30 January 2012. John Wheatman sent a reply to those points in his email of 10 February 2012 addressed to Councillor Roger Robinson.

On 9 February 2012 John Wheatman emailed an update direct to Councillor Roger Robinson.

Your email dated 13 February 2012.

Your email 9 February 2012

On 13 February 2012 John Wheatman emailed an updated to Councillor Roger Robinson.

The email of John Wheatman dated 17 February 2012.

You sent further emails on 20 and 21 February 2012.

An email dated 20 February 2012 from Pat O'Neill.

On 21 February 2012 John Wheatman emailed you.

On 22 February 2012 you emailed John Wheatman.

Your review stage complaint

On 17 February 2012 you emailed the complaint mailbox to record a formal complaint against Mr. Wheatman. They registered it under reference 7619657.

You gave as your reasons:

- He had not replied to emails although you had been without hot water for 47 days.
- Do not confuse emails he had sent to the councillors
- You had raised questions that he had not answered
- He never apologised to you and residents for the loss of hot water
- There had been noise nuisance issues over many years
- Money had been spent on heating repairs including pumps and 'spent millions on pipe works when the actual heating infrastructure is not up to the job'
- The problems went on and on and nobody seems able to plan and fix the problem.

My decision

I have previously assessed related concerns that you had about the maintenance of the boiler and the supply of heating and hot water on the Curnock estate.

You have put a case that all of the (286) flats on the estate have experienced low hot water temperatures for something now in the region of 60 days. I am advised that not all the flats have reported or are thought to have experienced such a continuing problem for that duration, although evidently many have reported individual loss of

service, including a number who have done so after your distribution of a letter to residents.

I am aware that there is a co-ordinated effort being made by the HASC and its partner contractors to remedy the entire problem by the end of March 2012. I note that Councillor Roger Robinson has made representations as to whether this time scale can be accelerated. The officers' report requested by Councillor Julian Fulbrook will address these concerns.

I appreciate that there has been a loss of hot water service to many if not all residents this year. The extent and the duration of loss of service to individual tenancies and leasehold flats on the estate are being established. I would expect that the HASC will apply its guidance of remedies Section 7.1 for tenants and section 7.2 for leaseholders in calculating what weekly refund and 80p per day rebate will be applied and any end of year adjustment made to leaseholder accounts.

You made a number of specific criticisms of John Wheatman. I will reply to each in turn.

- He had not replied to emails although you had been without hot water for 47 days.

In similar circumstances I have previously advised (page 7 of my Review decision of 25 May 2011) that not every communication is necessarily to receive an individual reply, nor must every recipient of communications with a distribution list reply to each communication. A measure of judgement has to be made about if and when an individual reply is to be sent. It can be appropriate for communications to be aggregated together and then replied to at a later date. This is particularly the case when technical issues and diagnosis is continuing and where the most important priority is for staff to try to restore the service.

The evidence I have viewed is that John Wheatman had provided information updates by email to you or to Councillor Roger Robinson during the time period.

- Do not confuse emails he had sent to the councillors

I do not think it unreasonable given the nature of the problems and the ongoing representations by Councillor Roger Robinson, to update him by email. I note that you have been copied in as a recipient also – such as the reply from John Wheatman to Councillor Roger Robinson dated 9 February 2012.

- You had raised questions that he had not answered

I have noted you have been raising a number of detailed and ongoing 'questions' in recent emails. Strictly speaking such questions can properly be considered and aggregated together where necessary by the HASC and treated as request for information under the Freedom of Information Act. The conduit for such questions is the FOI Access office for HASC (peter.williams@camden.gov.uk). Therefore it would not necessarily be a matter for John Wheatman to personally answer each set of questions and the timescale for replies is set by the FOI Act not by the corporate complaint procedure or by the Council's general customer care standards.

I note that a series of FOI Act requests for information (7620361 and 7620739) have been registered covering your overlapping questions by emails dated 30 January 2012; 9 February 2012 17 February 2012 and 20 February 2012) are being dealt with appropriately by the HASC under the requirements of the FOI Act. The evidence I have seen shows that John Wheatman has assisted in that process and given his input promptly. Please be assured that it would not be for him personally to answer all of your requests for information.

- He never apologised to you and residents for the loss of hot water

This point seems to be made personal against John Wheatman rather than directed to the HASC as your landlord. In your email of 21 February 2012 you say "I appreciate that your team is trying to fix the problem but as far as I am concerned this is your job and that is the reason the Camden Council is still giving you a payslip". In his email to you of the same date he included on behalf of the Council a genuine apology for the disruption to service. He also drew attention to the fact that a solution to the problem required a corporate input from within and beyond the HASC.

You should also have been aware of the wider involvement of many members of staff as a result of your previous communications with the Council. I refer more recently to the communication that Pat O'Neill sent to you on 20 February 2012 in which he rebutted your insinuation that John Wheatman was not professionally qualified, adding also the significant effort made by Mr Fox, Mr Rexha, Mr Michael and Mr Stow.

- There had been noise nuisance issues over many years

This issue was previously addressed in your complaint 6834012 and replies issued to you from my office and the HASC.

- Money had been spent on heating repairs including pumps and 'spent millions on pipe works when the actual heating infrastructure is not up to the job'. The problems went on and on and nobody seems able to plan and fix the problem.

It goes beyond the scope of my investigation of your complaint against John Wheatman to definitively answer your statement. I acknowledge from my own review of various background documents that the HASC has committed various expenditures on carrying out repairs to the boilers and associated pipework and fittings. Those efforts are continuing.

Summary decision

I am sorry to hear of the continuing problems and shortcomings with the supply to you of hot water. I hope that the plan of action already notified and under scrutiny from lead officers and members at this time will resolve the situation.

I feel unable to uphold your personalised complaint against John Wheatman. For the reasons I have set out in my reply, I feel that you have unfairly criticised his actions when a much wider group of staff has been involved. It would not be for him to reply direct to all of the communications you have addressed to him, nor has it been unreasonable to provide updated information and commentary to other persons, with you being copied in to such replies where it was right to do so. Finally, the Council is justified in treating some at least of your communications as 'requests for

information' and processing those accordingly through the Freedom of Information Act procedure.

I hope you feel that I have considered your complaint in a detailed manner. If you remain dissatisfied, the Local Government Ombudsman may be able to consider your complaints. His address is:

Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH
Phone: 0845 602 1983

Finally, it is also my practice to advise you of other potential routes to pursue matters. In that regard it could be taken that your complaint is about the standard of the Council's works to your home under the terms of your lease. The Landlord and Tenant Act 1985, as amended by Sections 83 and 86 of the Housing Act 1996, provides that you may apply to a Leasehold Valuation Tribunal about any dispute about the reasonableness of the costs incurred or the standard of the service or work charged for, or the charge itself. You also have the option of instituting proceedings in a court of law against the Council if you consider that it is in breach of its repairing obligations in your lease. In my view as such remedies exist it would not be unreasonable to expect you to use that remedy.

Under the Landlord and Tenant Act 1985 as amended by s83 and s86 of the Housing Act 1996 the Leasehold Valuation Tribunal can make decisions on all aspects of liability to pay service charges. The contact details:

Residential Property Tribunal Service
10 Alfred Place
London WC1E 7LR

Tel: 0207 446 7700

Fax: 0207 637 1250

www.rpts.gov.uk

More information on LVT's can be obtained from the Leasehold Advisory Service, 31 Worship Street, London EC2A 2DX, telephone number 020 7374 5380. Information can also be viewed on their website at www.lease-advice.org

Yours sincerely

Peter Swingler
Head of the Central Complaints Unit