

In accordance with Section 100(A)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council's Procedure Rules, the Chairman had permitted on grounds of urgency, consideration of this item in order to meet the timescale for implementing any changes at the Annual Council Meeting.

RESOLVED:

That the Overview and Scrutiny Constitutional Affairs Panel be asked to consider the following changes to the terms of reference of this Panel in time for the Annual Council Meeting in May when the Panel for 2006/07 will be appointed:

(a) the requirements regarding substitutes to be amended to read:

"Each political group represented on the Panel shall be required to nominate the equivalent number of substitutes to cover for any member of the Panel who is unavailable";

(b) the reference to meetings not being held in the absence of both the Chairman and Vice-Chairman of the Panel be removed; and

(c) the insertion of a requirement that in the absence of the Chairman and Vice-Chairman, a Chairman be appointed from the members (not substitutes) present at the meeting.

84. HOUSING NEEDS MANAGER

The Panel noted that Marion Pearce, the Housing Needs Manager would be retiring shortly and that the current Assistant Housing Needs Manager (Homelessness) had been appointed Housing Needs Manager.

RESOLVED:

(1) That the best wishes of the Panel be conveyed to Marion Pearce for a long and healthy retirement; and

(2) That the congratulations of the Panel be conveyed to Russell Wallace on his promotion.

85. DATE OF NEXT MEETING

The Panel noted that as there were no outstanding cases to be considered, the meeting scheduled to take place on 23 March 2006 had been cancelled.

86. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the Paragraphs of Part 1 of Schedule 12A of the Act indicated and it is considered that the exemption outweighs the potential public interest in disclosing the information:

Agenda Item Number	Subject	Exempt Information Paragraph Number
5	Application Number 24/2005	1 and 2 (formerly 3)

(Councillor Mrs Davis left the meeting. Councillor D Stallan, Vice- Chairman took the chair).

87. APPLICATION NO. 24/2005

The Panel considered an application for a review of a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority regarding the applicant's homelessness application. The applicant attended the meeting to present her case, accompanied by Ms D Thompson, Epping Citizens' Advice Bureau, and Ms V Mitchell, Support Worker from the Waltham Abbey Community Mental Health Team. Mr R Wallace (Assistant Housing Needs Manager - Homelessness) attended the meeting to present his case. Mr R Wilson (Assistant Head of Housing Services) attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the application.

The Chairman introduced the members of the Panel and the officers present to the applicant and her advisers and outlined the procedures to be followed in order to ensure that proper consideration was given to the review.

The Panel had before them the following documents which were taken into consideration:

- (a) a summary of the application together with the facts of the case and the decision taken by the Assistant Housing Needs Manager (Homelessness) forming part of the agenda for the meeting;
- (b) a copy of the licence to occupy accommodation at the Council's Homeless Persons' Hostel signed by the applicant;
- (c) a copy of a letter dated 12 September 2005 from the Hostel Manager to the applicant;
- (d) a copy of a letter dated 26 September 2005 from the Hostel Manager to the applicant;
- (e) a copy of a letter dated 29 September 2005 from the Hostel Manager to the applicant;
- (f) a copy of a letter dated 3 October 2005 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (g) a copy of a report dated 15 November 2005 prepared by the Hostel Manager;
- (h) a copy of the notes of an interview of the applicant by a Housing Officer dated 6 October 2005;
- (i) a copy of a letter dated 10 October 2005 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (j) a copy of the applicant's completed application to the Panel dated 8 November 2005;

(k) a copy of a letter dated 20 February 2006 from the Epping Citizens' Advice Bureau to the Council's Democratic Services Manger together with a copy of the submissions made on behalf of the applicant;

(l) a copy of a letter dated 28 February 2006 from the applicant's psychiatrist to the Epping Citizens' Advice Bureau; and

(m) a copy of a letter dated 9 December 2005 from the Assistant Housing Needs Manager (Homeless) to the applicant.

The Panel considered the following submissions in support of the applicant's case:

(a) the applicant applied as homeless to the Council on 8 June 2005; her application included her daughter, then aged 18;

(b) the Council accepted a full housing duty to the applicant due to her long-term depressive illness; temporary accommodation was provided for the applicant and her daughter;

(c) although the applicant's daughter had been 18 at the time and could be considered an adult in her own right, the applicant had been asked to sign a licence for accommodation at the Council's Homeless Persons' Hostel on behalf of herself and her daughter; as such she became responsible for any breaches of the licence committed by her daughter.

(d) the applicant's daughter had committed breaches of the Licence as alleged by the Assistant Housing Needs Manager (Homelessness); the applicant did not contest that these incidents did occur and she could only seek the mercy of the Panel about these issues; warning letters regarding the breaches had been issued to the applicant on 12 September 2005, 26 September 2005 and 29 September 2005 and on 3 October 2005 the applicant's licence to occupy had been terminated;

(e) the applicant had not herself committed any breaches of the licence agreement; she had taken the warning letters very seriously and had done everything possible to prevent her daughter (who had occupied a separate room) from continuing to breach the licence; she had remonstrated with her daughter several times and had warned her of the likely consequences of her actions; the daughter had taken no heed; the applicant had not been present at the hostel at the time of the second incident;

(f) the Panel should consider whether the applicant should be penalised for the actions of a wayward 18 year old; the applicant should have signed one licence and her daughter another; it could be argued that the applicant signed the licence under duress; it was not appropriate for a vulnerable person to sign a document accepting responsibility for another adult;

(g) the applicant's daughter no longer lived with the applicant; she had been housed by Nacro; the applicant's daughter's behaviour would no longer impact, therefore, on Council Officers or other residents;

(h) the Council had accepted that the applicant was a vulnerable person on grounds of mental health; she remained a vulnerable person and would be at risk if made homeless which could result in another admission to hospital;

(i) the applicant's psychiatrist had stated that the applicant's first contact with the Psychiatric Service had been when she was about 22 years old when she had suffered her first episode of depression; over the years the applicant had received regular outpatient follow-ups and care from the Community Mental Health Team; she had been an in-patient at St Margaret's Hospital and had been discharged on 22 February 2005; since that time she had been seen on a few occasions in follow-up clinics but her attendance had been rather sporadic; she had suffered from recurrent episodes of nervous breakdown for a considerable length of time; she was still very vulnerable to relapses into depressive episodes; she was currently supported by the Community Mental Health Team through a CPN and Support Worker; her mental illness and nervous breakdowns might have contributed to some unacceptable behavioural patterns; it was possible she had a dependent personality and without this might be vulnerable to self-neglect with some risk factors; it was not acceptable for her to remain homeless;

(j) since the applicant's eviction from the Homeless Persons' Hostel she had been housed in bed and breakfast accommodation by the Council and there had been no incidents;

(k) the Panel was requested to reinstate a full duty to house the applicant.

The Chairman apologised to the Assistant Housing Needs Manager (Homelessness) that he had not previously sought his agreement to the letter from the applicant's psychiatrist being considered as it had been submitted late. The Assistant Housing Needs Manager (Homelessness) stated that he had no objection to the letter being taken into account.

The applicant answered the following questions of the Assistant Housing Needs Manager (Homelessness) and the Panel:

(a) can you confirm that at the interview on 6 October 2005 you said that you had fully understood that you were responsible for abiding by the terms and conditions of the licence and that you were responsible for the behaviour of members of your household and visitors? - yes, but I did not understand why I had to sign for my daughter because we had separate rooms and she was over 18 at the time;

(b) you said you were away when one of the incidents occurred at the Homeless Persons' Hostel, did you inform the Hostel staff that you would be absent? - yes, I went to Kent for a approximately seven days for a family wedding; originally I had planned to be away for two days but had stayed longer; I have nothing in writing about this absence.

The Panel considered the following submissions in support of the case of the Assistant Housing Needs Manager (Homelessness):

(a) the applicant had made a Homeless Application to the Council on 8 June 2005; as part of the application she had wished to include her daughter as part of the assessment process, then aged 18;

(b) at the time of the application being made, the full provisions of the Housing Act 1996 Part VII as amended by the Homelessness Act 2002 had been applied to the case;

(c) the applicant had left private rented accommodation as she could no longer afford to remain; enquiries had been completed and a decision had been made to

accept a full housing duty to the applicant because of her long-term depressive illness;

(d) the duty on the Council was to ensure that temporary accommodation was made available to the applicant to occupy with her daughter;

(e) the Council fulfilled its duty in this respect by providing accommodation at its Homeless Persons' Hostel; the applicant had moved into the Hostel on 13 June 2005; the licence agreement detailed the obligations of the landlord to the licensee and the responsibilities of the licensee whilst in occupation;

(f) shortly after moving into the Homeless Persons' Hostel, the applicant had started to breach the terms of her Licence to Occupy;

(g) on 12 September 2005, a letter had been sent to the applicant as associates of her daughter had been behaving in an unacceptable manner;

(h) breaches of the licence had continued to occur; a further letter had been sent to the applicant on 26 September 2005 about her daughter allowing guests to stay overnight;

(i) a further letter had been sent to a number of residents, including the applicant, on 29 September 2005 regarding incidents that had occurred at the Homeless Hostel;

(j) despite these repeated warnings, the applicant had continued to allow breaches of her licence agreement; as a result the Hostel staff had been left with no option but to terminate her licence to occupy;

(k) on 6 October 2005, a further interview had been held with the applicant with her case officer in order to clarify the reasons for the eviction; after full consideration of all the facts on this case, a decision had been taken to discharge the temporary duty to accommodate;

(l) as a result of this decision, the Council no longer had a duty to provide temporary accommodation but arranged bed and breakfast accommodation for 28 days following eviction from the Homeless Persons' Hostel to allow the applicant time to make alternative arrangements; this period had been extended, pending the outcome of this review; it was acknowledged that the applicant's daughter no longer lived with her mother and had made her own arrangements for housing;

(m) Section 202 of the Housing Act 1996, as amended, gave the homeless applicant the right to request a review of decisions made under the provisions of the Act; in this case it was the decision that the applicant had become intentionally homeless from temporary accommodation made available for her occupancy that had prompted the request for the review;

(n) in making homeless decisions, the Council needed to have regard to Code of Guidance which was used by local authorities to assist with the interpretation of the Act; the Code stated that under Section 193(6), the housing authority would cease to be subject to the duty under Section 193 if the applicant became homeless intentionally from accommodation made available to her under Section 193;

(o) it was quite evident from all the detail provided that the applicant had repeatedly breached the terms of her licence to occupy; in making this decision, consideration had been taken of the fact that the applicant had a history of

depression; crucially however, at the time of the interview on 6 October 2005 the applicant had said that she had fully understood the terms and conditions of her licence to occupy; she had also stated that she had been aware that she was responsible for members of her household;

(p) in the event of the application being dismissed, reasonable notice should be given to the applicant to vacate the bed and breakfast accommodation which she currently occupied.

(q) the applicant was in arrears to the Council in respect of a former Council accommodation, the Homeless Persons' Hostel and the bed and breakfast accommodation.

At this stage the Assistant Housing Needs Manager (Homelessness) tabled copies of a letter dated 9 December 2005 sent to the applicant regarding her behaviour whilst at the bed and breakfast accommodation provided by the Council. The Chairman adjourned the meeting to enable the Panel to consider whether it would take this letter into account. The applicant, her advisers and the Assistant Housing Needs Manager (Homelessness) left the meeting. The Panel expressed concern at the late introduction of this letter bearing in mind its date. Members agreed that by tabling the letter, the Assistant Housing Needs Manager (Homelessness) had attempted to introduce a completely new issue in respect of which the applicant and her advisers had no opportunity to consider a detailed response. The parties were recalled to the meeting and the Chairman announced that, after due consideration, the Panel had decided to disregard the letter dated 9 December 2005 and he asked the Assistant Housing Needs Manager (Homelessness) to make no further reference to it or to any incidents which might have occurred whilst the applicant had been housed at the bed and breakfast accommodation provided by the Council.

The Assistant Housing Needs Manager (Homelessness) answered the following questions of the applicant, her advisers and the Panel:

(a) you have said that the applicant was fully prepared not to comply with the terms of her licence and that she deliberately allowed her daughter to breach the terms; on reflection, do you not consider these words are too strong, bearing in mind that on one of the occasions the applicant had not been present? - I stand by my words;

(b) do you consider that these were deliberately planned actions? - officers are fully aware that they are dealing with vulnerable people at the Hostel and we give them every opportunity by way of warnings but if warnings are not heeded I am of the opinion that incidents are deliberate;

(c) would it not have been better to give the applicant's daughter her own licence? - the application completed by the applicant had included her daughter as part of the household so it was not appropriate to grant separate Licences;

(d) would it have been possible to give them separate licences? - yes, if at the time of the application the applicant had made an application in her name only, and the daughter had made a separate application in her name only;

(e) bearing in mind that the applicant was vulnerable, was she made aware that separate applications could be made? - it was the applicant's choice to include her daughter and a duty to house the applicant was accepted; there was no reason at that time to think there might be a breakdown between the applicant and her daughter;

(f) did she know that she had a choice? - the Council's Homeless Prevention Officer had been working with the applicant and it was the applicant's choice to include her daughter as part of the application;

(h) can you clarify the reference you made to the applicant's arrears? - £2,678.36 from a previous tenancy of Council accommodation; £363.21 whilst in the Homeless Hostel and eligible charges whilst in bed and breakfast accommodation; I consider it reasonable to bring these matters to the attention of the Panel since if members are in any doubt about the case this shows how the applicant has conducted her tenancies;

(i) has there been any direct liaison between the Council and the applicant's daughter at any time? - no.

(j) can you confirm that the arrears you have drawn attention to were not mentioned in the submitted papers - yes

(k) do any of the alleged breaches of the licence relate to the applicant? - no, they all relate to her daughter and visitors only;

(l) the applicant's representatives have emphasised that the applicant has been penalised for the actions of her daughter; if the applicant had been the tenant of a Council house and her daughter had breached the terms of the tenancy could this have resulted in eviction? - yes, the Licence mirrors a tenancy agreement.

The Chairman asked the applicant and her representatives if they wished to raise any further issues in support of the applicant's case.

Ms Thompson advised that she had been unaware of the applicant's debts but suggested that the ability to pay should not be taken into account in determining the character of the applicant. The applicant was vulnerable and debts were capable of being managed. She requested that the Panel consider the matters carefully. The applicant said that she wanted the arrears investigated. She said that her former husband was responsible for the arrears from the former Council property. He had not paid anything and her daughter had not paid anything. She said that she had tried to contest the proceedings but had failed.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case. He advised the applicant had been a former tenant of a Council property and was being pursued by the Council's Legal Services for the arrears. At the request of the Chairman he agreed to assist the applicant in getting the question of these arrears reviewed.

At this stage of the hearing the applicant broke down and left the meeting with her Support Worker.

The Assistant Housing Needs Manager (Homelessness) repeated that the applicant had included her daughter as part of the application and as a result had been responsible for her actions whilst at the Homeless Persons' Hostel. The daughter had breached the terms of the licence several times despite warnings. From the psychiatrist's report it was evident that she had not sought assistance on a regular basis. She had not conducted any of her tenancies or licences well.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the applicant and the Assistant Housing Needs Manager

(Homelessness) would be advised in writing of the outcome. The applicant's remaining adviser and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel expressed concern about the actions of the Assistant Housing Needs Manager (Homelessness) in introducing the applicant's arrears of rent, licence fees etc when no details had been made of these in the submitted papers other than a reference to arrears of licence fees. The Panel agreed to disregard the comments which had been made about arrears in respect of the Council property and the bed and breakfast accommodation. They also agreed to simply note the reference in the submitted papers to the arrears of licence fees in respect of the Homeless Hostel but not to take this into account as a determining factor in relation to the review.

The Panel discussed the application process and the application completed by the applicant. The Panel agreed that by including her daughter as part of her application, the applicant had accepted responsibility for the behaviour of her daughter and her visitors at the Homeless Persons' Hostel. The applicant had fully accepted that her daughter had breached the terms of the Licence on several occasions.

The meeting was adjourned for five minutes to enable one of the members of the Panel to move her car. The meeting resumed.

The Panel concluded that for the applicant and her daughter to have had separate licences they would have needed to have completed separate applications. If that had happened it would not necessarily have led to both applications succeeding. An investigation would have been undertaken to establish whether there had been a housing duty to the daughter.

The Panel discussed the evidence submitted in respect of the applicant's depression. It was noted that the applicant had understood the warning letters about the breaches of the terms of the licence and had taken steps to try to prevent her daughter from committing further breaches. At the interview on 6 October 2005, the applicant had stated that she fully understood the terms and conditions of her licence to occupy. On balance, the Panel concluded that the applicant's depression had not made her unable to manage her affairs.

The Panel agreed that there had been no deficiency or irregularity in the original decision made by the Assistant Housing Needs Manager (Homelessness) or in the manner in which it had been made.

The Panel then discussed the manner in which the Assistant Housing Needs Manager (Homelessness) had presented his case. In particular members were critical of the attempts to introduce matters at the meeting which had not been previously mentioned in the written submissions.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Code of Guidance on Homelessness, and having taken into consideration the information presented by and on behalf of the applicant and by the Assistant Housing Needs Manager (Homelessness) in writing and orally, the decision of the Assistant Housing Needs Manager (Homelessness) that the Council had discharged its duty to provide the applicant with temporary accommodation be upheld for the following reasons:

- (a) the applicant had included her 18 year old daughter in her homeless application;
- (b) the applicant had confirmed that she fully understood the terms and conditions of her licence to occupy accommodation at the Council's Homeless Persons' Hostel and that she was aware that she was responsible for the conduct of her daughter who was also resident at the Hostel;
- (c) whilst at the Homeless Persons' Hostel, the applicant's licence agreement had been breached as a result of her daughter causing nuisance or annoyance to other residents as a result of her visitors stealing items from a resident's refrigerator and allowing visitors to stay with her in her room over night on more than one occasion;
- (d) the applicant had accepted that due to her daughter's unacceptable behaviour at the Hostel she had repeatedly been in breach of the terms of her licence to occupy and that despite several warnings about her daughter's behaviour the breaches had continued;
- (e) had it not been for these deliberate acts, the accommodation at the Homeless Persons' Hostel would have been available and reasonable for the applicant to continue to occupy;
- (f) account has been taken of the evidence of the applicant's history of depression but it is not considered that this made her unable to manage her affairs;
- (2) That no deficiency or irregularity has been identified in the original decision made by the Assistant Housing Needs Manager (Homelessness) or the manner in which it was made;
- (3) That the Council continues to provide interim accommodation for a period of 28 days from the date of the letter notifying the applicant of the Panel's decision in order to allow the applicant reasonable opportunity to secure alternative accommodation;
- (4) That, subject to the agreement of the applicant, the officers refer the applicant to Social Care to seek their assistance in helping the applicant find alternative accommodation; and
- (5) That the Head of Housing Services discuss with the Assistant Housing Needs Manager (Homelessness) the concerns of the Panel about the manner in which this case was presented.

CHAIRMAN