

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 25 January 2007

Place: Civic Offices, High Street, Epping **Time:** 4.00 - 6.15 pm

Members Present: Mrs P K Rush (Chairman), Mrs R Gadsby, Mrs P Richardson, Mrs P Smith and J Wyatt

Other Councillors:

Apologies:

Officers Present: A Hall (Head of Housing Services) and G Lunnun (Democratic Services Manager)

22. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 23 November 2006 be taken as read and signed by the Chairman as a correct record.

23. SUBSTITUTE MEMBERS

It was noted that there were no substitute members present at this meeting.

24. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs P Richardson declared a personal interest in agenda item 7 (Appeal No 8/2006) by virtue of being an acquaintance of the appellant. She determined that her interest was prejudicial and that she would leave the meeting for the duration of the consideration of the request.

25. 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 items of business set out below as they would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item No	Subject	Exempt Information Paragraph Nos
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6	Application No 9/2006	1 and 2
7	Appeal No 8/2006	1 and 2

26. APPLICATION NO. 9/2006

The Panel considered an application for a review of a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority that the applicant had made herself homeless intentionally from temporary accommodation provided by the Council and that the duty on the Council to provide her with temporary accommodation had been discharged. The applicant attended the meeting to present her case. Mr J Hunt (Assistant Housing Needs Manager (Homelessness)) attended the meeting to present his case assisted by Mr B Howland (Hostel Manager). Mr A Hall (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 officers present to the applicant 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 forming part of the agenda for the meeting;
- (b) the case of the Assistant Housing Needs Manager (Homelessness);
- (c) copies of documents submitted by the Assistant Housing Needs Manager (Homelessness) namely:
 - (i) the applicant's Licence to occupy a room at the Council's Homeless Hostel;
 - (ii) letter dated 7 September 2006 from the Deputy Hostel Manager to the applicant;
 - (iii) letter dated 9 October 2006 from the Hostel Manager to the applicant;
 - (iv) letter dated 16 October 2006 from the Hostel Manager to the applicant;
 - (v) letter dated 2 November 2006 from the Hostel Manager to the applicant;
 - (vi) report of the Hostel Manager regarding the applicant;
 - (vii) letter dated 6 November 2006 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
 - (viii) letter dated 15 November 2006 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (d) a copy of the application to the Housing Appeals and Review Panel by the applicant dated 6 December 2006.

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

- (a) the applicant had understood the need to follow the signing in process on a daily basis at the Council's Hostel but her mother had been admitted to hospital after suffering a minor stroke and it had been necessary for the applicant to return to the family home to look after her sisters and brother; during this time, she had been unable to follow the signing in process;
- (b) the staff at the Hostel had been aware of the applicant's absence and her reasons for living at her mother's home, which had been agreed by the Hostel staff, provided she returned to the Hostel by 3 October 2006;
- (c) the applicant had been diagnosed as suffering from post-natal depression, a condition that she was not aware existed until approximately September 2006; she had not understood why she had felt so low and the need to shut herself away from everyone; she had not approached her doctor earlier as she had thought he might consider that she was not in a fit state to look after her daughter;
- (d) the applicant's doctor had prescribed anti-depressants and had advised attendance at counselling sessions which the applicant was attending;
- (e) a friend of the applicant had appreciated the applicant's problems and had invited her to stay with her until she felt better; when the applicant had stayed with her friend, she had been unable to follow the signing in process at the Council's Hostel; the applicant's friend's partner had returned home from the Army and had been very upset about the applicant and her daughter's presence and they had to leave that accommodation;
- (f) the applicant had been quite happy before the birth of her daughter but had been unable to concentrate on matters since that time; she was now starting to get her life back on track and her housing situation was one of the main issues which she needed to resolve.

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

- (a) Do you have any documents in support of your case to place before the Panel? - No; I tried to get a doctor's appointment so that I could ask him to provide a letter regarding my condition but the earliest appointment I could get was the end of next week as my situation was not considered to be an emergency;
- (b) Why did you not contact staff at the Council's Hostel to explain your absences? - At the time I felt physically unable to see or talk to anyone and then I panicked and could not face up to my situation;
- (c) When did your mother suffer her stroke? - In September/October 2006; she had become numb on one side and after passing out in the doctor's surgery, had been admitted to hospital; at the time there had been no other member of the family available to look after my sisters and brother; my grandmother spends two months in England and two months in Spain at a time; when my mother came home from hospital she had said that I was not needed any more; my mother has shut me out of her life earlier;
- (d) Was there a land line telephone at your mother's house? - No;
- (e) Which doctor's surgery do you attend? - Market Square, Waltham Abbey;

(f) The Hostel Manager had stated that when a final warning letter regarding non occupation was delivered to your room at the Hostel on 2 November 2006, previous letters from the Council had been found unopened; when did you read those letters? - I read the final letter dated 15 November 2006 when I came to the Civic Offices in December 2006; I did not receive and did not open the previous five letters;

(g) What prompted you to come to the Civic Offices? - My friend's partner returned home from the Army and I needed to leave my friend's accommodation; I spoke to someone at the Council's Hostel and they told me my room there was no longer available and that I needed to contact the Civic Offices for an explanation;

(h) On your application form to the Panel you have included a friend as being part of your household as well as yourself and your daughter; can you clarify the position? - the person mentioned is the friend who I stayed with whose partner was in the Army;

(i) Do you agree, therefore, that she is not part of your household? - yes, I can confirm that I only require accommodation for myself and my daughter;

(j) Is the address you provided on your application form, the address of your friend? - yes.

(k) How long was your mother in hospital? - approximately one week; when she returned home she was still poorly and went back into hospital; she discharged herself and was in and out of hospital over a period of approximately one month;

(l) Where are you residing now? - in bed and breakfast accommodation provided by the Council; I have been there since 7 December 2006;

(m) Can you clarify the position with your mother and the family home? - after the birth of my daughter I was asked to leave the family home and I went to the Council's Hostel; when my mother became ill I returned to the family home but when she was better she asked me to leave again; I went to my friend's house but when her partner returned from the Army I was asked to leave that accommodation;

(n) You have said that your friend was concerned about you; why did she not telephone the Council to express her concerns about your situation? - I assume it did not cross her mind to do so;

(o) Did you ask your friend to contact the Council? – no, because I thought they would only speak to me;

(p) Can you explain further why your mother asked you to leave the family home? - before I became pregnant I was close with my mother; nothing in particular happened but my mother turned nasty towards me and said that she no longer wished to see me; when I became pregnant she calmed down and our relationship improved with the help of my sisters; once my daughter was born the two bedroom flat was not large enough for my mother, my two sisters, my brother, myself and my daughter so my mother put pressure on me to leave; when my mother became ill and I returned to the family home she had no option but to accept my help until her health improved;

(q) How old are your sisters and brother? - my sisters are 17 and 16 and my brother is 12;

(r) You have said that your mother was in hospital in September/October 2006 but you do not appear to have complied with the signing in procedure at the Council's Hostel before that time; can you clarify the position? - I moved into the Hostel in August 2006 and followed the signing in procedure during the first week; I was aware that I had to sign in twice a day but some days I did not as I generally forget to do so; I had not been in accommodation like that before and was not used to signing in every day; a lot of the time during the first couple of weeks I remained in my room; I phoned the Hostel on 20 August 2006 to ask for time off due to problems at my family home and indicated that I would be returning between 28 and 30 August 2006;

(s) Do you have your own transport? - no.

(t) How long did you spend at the family home at that time? - approximately 4 weeks;

(u) Do you have a mobile phone? - yes.

(v) Before you became pregnant were you on the Council's Housing List? - Epping Forest said that they would refer the matter to Broxbourne Borough Council for housing as they considered that I had no connection with the Epping Forest District but did have a connection with Broxbourne Borough; Broxbourne Borough Council refused to accept a referral;

(w) Since you have been in the bed and breakfast accommodation provided by the Council have you complied with the Terms of Occupancy? - yes I sign in every day; I spend most of my time there although one of my sisters is on study leave and I arrange to meet her sometimes.

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

(a) the applicant had made a homelessness application to the Council on 7 August 2006; the applicant was a single parent aged 22 and as part of her application for housing she had included her daughter now aged eight months; the applicant had been living at the family home in Waltham Cross but had been asked to leave by her mother; this Council had accepted a duty to accommodate the applicant but a referral had been made to Broxbourne Borough Council under Section 198 of the Housing Act 1996, as amended, as it had been considered that the applicant had no connection with the Epping Forest District but a connection arose with Broxbourne;

(b) the duty on the Authority was to ensure that temporary accommodation was made available to the applicant and her daughter; the Council fulfilled its duty by providing the applicant with accommodation at the Council's Hostel; the applicant moved into the Hostel on 8 August 2006;

(c) attention was drawn to the Licence Agreement signed by the applicant to occupy accommodation at the Hostel; the Agreement listed the obligations of the Landlord to the Licensee and also the responsibilities of the Licensee whilst in occupation of the accommodation; in particular, paragraph 4(3) stated that all absences must be reported to the Council staff on site and that the signing in process had to be followed on a daily basis; in addition the agreement required an occupier to seek approval from the Hostel Manager for all absences from the Hostel of longer than one night; the agreement further stated that any unauthorised absence might result in the termination of the Licence to Occupy;

(d) on 7 September 2006, the applicant had received her first warning letter regarding non-occupation; the applicant had contacted staff at the Hostel to make them aware that she had been looking after her mother but that she would be moving back in on 3 October 2006; the applicant had not moved back to the Hostel and due to continued non-occupation, three further warning letters had been issued dated 9 October 2006, 16 October 2006 and 2 November 2006; the warning letters had made it clear that not occupying the room and consequently not signing the register would result in the applicant's Licence to Occupy the room being terminated; on 7 November 2006 the applicant had been served with notice and her Licence to Occupy the room had ended on 13 November 2006; on 15 November 2006 a letter had been sent to the applicant discharging the Council's duty to accommodate her because it was considered that she had made herself homeless intentionally; as a result, the Council no longer had a duty to provide the applicant with temporary accommodation under Section 193 of the Housing Act 1996, as amended; in that notification the applicant had been given 21 days in which to seek a review of the decision and on 6 December 2006 she had contacted the Council and had been made aware of her right to seek a review through this Panel; the applicant had attended the Civic Offices and had completed an application form to the Panel; the applicant had accepted that she had not been staying at the Hostel and had been staying with a friend who had now asked her to leave;

(e) the Council had exercised its discretion to accommodate the applicant in bed and breakfast accommodation pending the outcome of this review;

(f) in making homeless decisions, the Council must have regard to the Code of Guidance which is used by local authorities to assist with the interpretation of the homelessness legislation; the Code of Guidance states that a person became homeless, or threatened with homelessness, intentionally if:

(i) he or she deliberately did or failed to do anything in consequence of which he or she ceased to occupy accommodation (or the likely result of which was that he or she would be forced to leave accommodation);

(ii) the accommodation was available for his or her occupation; and

(iii) it would have been reasonable for him or her to continue to occupy the accommodation;

(g) the Code of Guidance further stated that under Section 193(2) of the Act, the housing authority would cease to be subject to the duty (to accommodate) if an applicant became homeless intentionally from accommodation made available under that section (temporary accommodation);

(h) the applicant's failure to comply with her Licence requirement to occupy her room at the Council's Hostel was considered to have been a deliberate act on her part, a consequence of which she had been served with notice after being sent four warnings; the accommodation that the applicant had occupied at the Hostel would have continued to be available to her, had she complied with her Licence conditions; the accommodation was considered to be reasonable for the applicant to occupy as she had a normal sized room that would have been sufficient for her needs and support for her was available from the Hostel staff;

(i) the applicant had signed her Licence Agreement and by doing so had agreed that she would occupy her room at the Hostel, sign the register to demonstrate her occupancy and report any absences to the staff at the Hostel; the applicant had failed to do so despite repeated warnings and this had led to her homelessness; the

applicant was considered to have made herself homeless intentionally from the temporary accommodation made available to her under Section 193 of the Housing Act 1996 as amended, and the Council had discharged its duty to provide her with housing;

(j) in the event of the officer decision being upheld, it was recommended that reasonable notice should be given to the applicant to vacate her bed and breakfast accommodation and a referral made to Social Care in order that the provisions of the Children Act 1989 could be applied.

The applicant advised that she did not wish to ask any questions of the Assistant Housing Needs Manager (Homelessness). The Assistant Housing Needs Manager (Homelessness) answered the following questions of the Panel:

(a) Did the applicant sign the Licence to Occupy in the presence of a Council Officer? - the Licence would have been signed in the office of the Hostel with a Hostel member of staff present;

(b) Is it normal for Hostel staff to explain the terms of the Licence to an occupier? - yes;

(c) Can you clarify the meaning of the final paragraph of your letter dated 15 November 2006? - following a change in an applicant's circumstances a file is passed from the Homelessness Section to the Housing Allocations Team so that the records are kept up-to-date; in practice there are two issues, the homelessness application before the Panel and an application for permanent housing on the Housing Register which needs to be kept up-to-date at all times;

(d) When the letters addressed to the applicant were found unopened in her room at the Hostel, what action did you take? - the letters were returned to the Civic Offices unopened for placing on the applicant's file, as we did not know her whereabouts;

(e) Can you clarify the period when the applicant first failed to sign in at the Hostel? - Appendix 6 states that she signed in on 9, 11, 14, 16 and 17 August 2006 and that on 20 August 2006 she telephoned to ask for a week away to look after her mother who was ill; she subsequently signed in on 28, 29 and 30 August 2006; she failed to sign in during the following week and was sent her first warning letter on 7 September 2006; she did not sign in at all throughout September; she subsequently telephoned to say that she was looking after her mother but would be moving back to the Hostel on 3 October 2006; she failed to sign in all of that week and was sent a second non-occupation letter on 9 October 2006; she failed to sign in the following week and was sent a third non-occupation letter on 16 October 2006; as she had not signed in since 30 August 2006, she was sent a final warning regarding non-occupation on 2 November 2006;

(f) If you had been aware of the circumstances for the applicant not signing in would she have been sent the non-occupation letters? - no, if she had remained constantly in touch to advise that she was still looking after her mother there would have been no problem; however, she had not signed in since 30 August 2006 and has telephoned only once to state that she would be moving back to the Hostel on 3 October 2006 but failed to do so;

(g) If you knew the appellant was staying with her mother, did you make any attempt to contact her at that address? - no;

(h) Why not? - most of the families in the Council's Hostel have issues and there is a limit to what can be done; it is the responsibility of the occupiers to inform the staff of their situation and not for staff to chase up issues on behalf of the occupiers; it should be noted that when the majority of non-occupation letters were sent, the applicant was staying with her friend at that time and not at the family home;

(i) Prior to 3 October 2006 did you know that she was at her mother's property? - yes;

(j) After 3 October 2006 was any attempt made to speak to the applicant directly? - no; it is the responsibility of the occupiers of the Hostel to advise staff of their situation.

The Chairman asked the applicant if she wished to raise any further issues in support of her case.

The applicant advised that prior to becoming depressed she had worked and had had no problems with day-to-day issues. However, when she had become depressed she had felt so low that she felt unable to do anything and could not cope with day-to-day issues. She now accepted that she could have handled things better but had felt unable to do so at the time. With the assistance of anti-depressants she was now able to cope with her daughter and life generally.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case. He advised that he had nothing further to add.

The Chairman indicated that the Panel would consider the matter 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 and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel considered all of the evidence which had been placed before it. The Panel concluded that a decision could not be made without medical evidence in relation to the applicant's apparent post-natal depression. Members emphasised that they felt officers had determined the application in a fair and thorough way but had made their decision possibly without knowledge of all of the relevant facts. As this review required the Panel to consider the matter afresh it would be possible to take into account medical evidence regarding post-natal depression, which had not been available to the officers.

RESOLVED:

(1) That a decision on this application be deferred to the next meeting of the Panel on 15 February 2007 pending receipt of medical evidence regarding the applicant's post-natal depression;

(2) That the Council's Medical Adviser be requested to provide general advice to the Panel about post-natal depression and its effects, including debilitating effects and information about how long after birth the condition can arise and how long it can take for someone to recover with the help of drugs;

(3) That the applicant be urged to attend the appointment she has arranged with her doctor and to seek a letter from him in support of her application;

(4) That the applicant be advised that her application will be determined at the meeting on 15 February 2007 even if she has not submitted a letter from her doctor in time for that meeting;

(5) That the applicant and the Assistant Housing Needs Manager (Homelessness) be advised that their attendance will not be required at the meeting on 15 February 2007 as the decision will be made on the information presented at this meeting, in writing and orally, and the medical evidence and advice received in accordance with (2) and (3) above; and

(6) That the Council continues to exercise its discretion to accommodate the applicant in bed and breakfast accommodation pending the outcome of a final decision by the Panel.

27. APPEAL NO: 8/2006

The Head of Housing Services reported that the Panel at its last meeting had dismissed an appeal against a decision not to place the appellant in Band 1 of the Council's Housing Allocations Scheme. At that meeting the Panel had also resolved that the appellant be informed that if she was in receipt of written advice from a medically qualified practitioner which was not presented at the meeting and which supported her being placed in a different Band of the Council's Allocations Scheme, she should submit that advice to the Council's Housing Services for consideration.

The Panel noted that following those decisions, the appellant had submitted for consideration a further self-assessment medical form, two further letters from the Rectory Lane Health Centre and a letter from her daughter's school. These additional documents had been forwarded to the Council's independent Medical Advisor for consideration. The Advisor had informed the Council that, having considered this additional information, it remained his view that the appellant's current accommodation was reasonable on all medical grounds and that no medical priority accrued. This information had been communicated to the appellant by Housing Services and in response a request had been made by the appellant and her advocate at the original Panel meeting for the Panel to hear a further appeal on the basis that the further information submitted was materially different from the previous information considered by the Panel and that, as a result, warranted increased priority.

The Panel considered the appellant's request.

RESOLVED:

That the position is not materially different from that previously considered at the meeting held on 23 November 2006 and further consideration of the matter by the Panel is not justified.

CHAIRMAN