

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** 17 January 2008

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 4.00 - 7.10 pm

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

Other Councillors:

Apologies: R D'Souza

Officers Present: A Hall (Director of Housing), S G Hill (Senior Democratic Services Officer), R Wilson (Assistant Head of Housing Services (Operations)) and R Wallace (Housing Needs Manager)

92. SUBSTITUTE MEMBERS

It was noted that Councillor J Lea was substituting for Councillor R D'Souza.

93. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the code of conduct for members.

A Hall, Housing Director declared a personal interest in case 3/2008 and indicated that he would be withdrawing from the meeting for that item and that Mr R Wilson would advise the panel on that case.

94. 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 Number |
|----------------|--------------------|-------------------------------------|
| 5 | Application 1/2008 | 1 and 2 |
| 6 | Application 3/2008 | 1 and 2 |

95. APPLICATION 1/2008

The Panel considered a review of a decision made by officers under delegated authority that an offer of a two bedroomed property was a suitable offer for the applicant's needs. The applicant had previously appealed to the County Court on a point of law. At the appeal hearing the Judge had quashed the officer review decision and the matter had been remitted back to the Authority to undertake a further review.

The applicant attended the meeting to present her case together with two of her children. Mr R Wallace (Housing Options Manager) attended the meeting to present the officers' case, Mr A Hall (Housing Director) attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the appeal. The Chairman introduced the members of the Panel and officers present to the applicant and outlined the procedure to be followed in order to ensure that proper consideration was given to the review.

No documents were submitted by the applicant in connection to this case prior to the meeting. A bundle of documents were tabled at the meeting by the applicant but were not referred to by the applicant in her presentation or summing up.

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

- (a) The case of the Housing Options Manager;
- (b) Copies of documents submitted by the Housing Options Manager, namely:
 - (i) a letter dated 28 March 2007 from the Assistant Housing Needs Manager to the applicant;
 - (ii) a letter dated 21 March 2007 from the Hostel Management Team to the applicant;
 - (iii) undated letter from the applicant to the Hostel Management Team (referred to as Appendix 3 of the agenda)
 - (iv) a letter dated 26 March 2007 from the Hostel Management Team to the applicant;
 - (v) an interview report dated 9 May 2007;
 - (vi) a letter dated 15 June 2007 from the Assistant Housing Needs Manager (Homelessness) to the applicant (Appendix 6 in the agenda);
 - (vii) a letter dated 25 June 2007 from the Assistant Housing Needs Manager (Homelessness) to the applicant (Appendix 7 in the agenda);
 - (viii) a letter dated 27 June 2007 from the applicant to the Assistant Housing Needs Manager (Allocations);
 - (ix) a letter dated 4 July 2007 from the Assistant Head of Housing (Management) to the applicant (Appendix 9 of the agenda)

- (x) a letter dated 11 July 2007 from the applicant to the Assistant Head of Housing (Management);
- (xi) a letter dated 21 August 2007 from the Assistant Head of Housing (Management) to the applicant (Appendix 11 of the agenda)
- (xii) an undated letter from the applicant to the Assistant Head of Housing (Management) (Appendix 12 to the agenda);
- (xiii) Witness Statement of Assistant Housing Needs Manager (Homelessness) dated 12 October 2007;
- (xiv) Judgement of Cambridge County Court dated 12 November 2007;
- (xv) Respondents (EFDC) Skeleton Argument to Cambridge County Court prepared by the Council's Barrister dated 12 October 2007;
- (xvi) Attendance Note prepared by Council's Barrister 27 November 2007;
- (xvii) Supplementary Agenda papers comprising letters from London Borough of Hackney dated 12 July 2007 and 10 August 2007 and email correspondence dated 10 January 2008 between the Council's Barrister and Housing Options Manager; and
- (xviii) Extract from "Homelessness and Allocations" page 612 paragraph 17.2 refers.

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

- (a) The applicant stated that her request for review was based upon her refusal of an offer of a two bedroomed property;
- (b) The applicant stated that her family had been made homeless as a result of their home being repossessed in January 2007 following her husband losing his job;
- (c) The applicant had approached the Council for assistance and had been placed in Norway House in two rooms which served as a living/sleeping area for five people: herself, her husband, one daughter and two sons. The accommodation was very cramped;
- (d) The applicant stated that these conditions had led to problems within the family unit and she had since split from her husband;
- (e) The applicant had been offered a two-bedroomed house which she refused with reasons, despite clarifying the size of her family to the Council. This had been reviewed by a more senior officer in August 2007 and the result had been that the offer was reasonable as the Council had said that her two sons were not living at the hostel when they were and therefore had been discounted from the household.
- (f) On some nights her sons stayed at friends. The family also owned a dog, which was being looked after by friends, and the sons went to visit the dog.
- (g) The review decision was appealed to the County Court and the Council's decision and review were quashed.

The applicant answered the following questions of the Housing Options Manager and the Panel:-

- (a) Why had the applicant not challenged the section 184 notice regarding the allocation of accommodation at Norway House if she was unhappy about that accommodation? – I never complained about the temporary accommodation, why would I have disagreed with this? I am homeless and waiting for permanent accommodation from the Council.
- (b) Where are the sons living now? – at the hostel.
- (c) Has this had an effect on their schooling? – Yes. One son had failed his GCSEs because of the upheaval and my other son had to leave his college for one closer to my work. Studying was difficult as there were no Internet services at the hostel and therefore homework had to be done at friends' houses. This meant that I have to pick them up sometimes at 9 and 10 at night. There were transport difficulties that mean that I have to pick them up. When my car broke down last April it had taken an hour each way to walk to Epping Station and back. Cab fares were £5 each way.
- (d) Was the applicant's daughter staying at the hostel? – Yes, but she had withdrawn from her studies and doing the year again. She leaves every morning.
- (e) So all three children were living permanently at the hostel? – Yes.
- (f) Has your daughter applied to university for accommodation? – Yes, when we were living in Loughton as she had placements during the week but the offer was for one year only; students were required to live off campus in Year 2.
- (g) Where was the applicant's husband? – We have split up. He visits sometimes.

The Panel considered the following submissions of the Housing Options Manager

- (a) The applicant had made a homelessness application to the Council on 30 January 2007. The Homelessness Prevention Unit had been unable to prevent this as mortgage arrears on the applicant's property were large.
- (b) The applicant was interviewed and the Council had been satisfied that they had a duty to provide accommodation including those residing with her.
- (c) The applicant had not asked for a review of the suitability of the accommodation provided to her.
- (d) The staff at Norway House had expressed concerns that the applicant was not making full use of the accommodation and the Council had written to the applicant on 21 March 2007, to which the applicant had responded. The Council had written again reiterating the concerns.
- (e) The Housing Options Manager stated that the Council had a chronic housing shortage and that the Council expected that Housing Applicants kept the Council informed of any changes to their circumstances.
- (f) The applicant had been interviewed on 9 May 2007 during which she had failed to mention a housing application made to Hackney Council made by two of her children.

(g) The Housing Options Manager refuted the idea that the offer of two bedroomed accommodation was 'out of the blue' as the Council had written to the Applicant following her interview (Appendix 6 to the agenda papers) regarding a determination of the size of the household based upon evidence of the Hostel Management.

(h) The Council had made an offer of two bedroomed accommodation on 25 June 2007 that had been refused by the applicant.

(i) A review of the appeal made by the applicant had been undertaken by the Assistant Head of Housing. During the assessment period the Council had been contacted by Hackney Housing regarding a request for homelessness assistance because of a refusal of tenancy succession. Claims had been made to Hackney Housing regarding succession to the tenancy of a property provided to the applicant's children's grandmother that two of the applicant's children had lived with their grandmother since 1991 and had no knowledge of their parents' whereabouts.

(j) The Assistant Head of Housing had therefore determined that the offer of two bedroomed accommodation was appropriate and suitable. This had been notified to the applicant who had given notice of her intention to appeal further to the County Court on a point of law.

(k) The Panel were asked to note a section of evidence from a statement made by the Assistant Housing Needs Manager (Homelessness) (appendix 13 to the agenda) in which a telephone conversation between the London Borough of Hackney and the Council had been recorded. This included the claims of residency made by two of the children to Hackney.

(l) The Housing Options Manager stated that the Council needed to ensure that the provision of a three bedroomed property was right given the information provided by Hackney.

(m) The appeal had been heard at Cambridge County Court and the decision to offer the applicant a two bedroomed property only, and the review of the decision, were quashed in a judgement dated 22 November 2007.

(n) The original decision had therefore been referred back to the Council (and therefore the Panel) to determine afresh. In noting the judgement the Panel were asked to consider the reasons for that judgement as outlined in the Attendance Note of the Council's barrister.

(o) In considering this further review the Panel were asked to: consider the suitability of accommodation at Norway House and the lack of a request for a review against the suitability of that accommodation; give close scrutiny to the requirement to provide accommodation to "...the applicant and to all members of his or her household who normally reside(d) with him or her, or might have reasonably be expected to reside with him or her"; the homelessness duty that the Council might have to the applicant given the request for housing assistance from Hackney Homes.

(p) The Norway House staff had now confirmed that the applicant's sons were now residing at the site.

The Housing Options Manager answered the following questions of the appellant and the Panel:-

(a) The applicant stated that she had not received the letter advising her of the change to the household makeup from the Council, if she had she would have challenged it. – Response: you were informed of the Council’s intentions during your interview.

(b) How was my daughter taken off the application? The property offered to me was for myself, my husband and sons. Why had the Council changed its view? – Response: I would refer you to the letter of the Assistant Head of Housing at Appendix 11.

(c) Do you agree that my daughter had withdrawn her application to Hackney? Response: Yes

(d) [Are you] saying that you apply to another authority to your detriment? The judge says that the review was based upon a tissue of lies. Response: We had a duty to consider the review afresh – we have included the barrister’s comments in the papers.

(e) I never received the letter at Appendix 6 (letter regarding size of household) – if you were satisfied that they should be discounted from the household – where were they staying? Response: You had the opportunity at interview to inform the Council that your sons had made an application for succession of the tenancy held by their grandmother. You were informed of the information we had, but failed to sign the interview note.

(f) I didn’t agree that the note was correct. You say I was invited to appeal against the decision to accommodate us at Norway House – the letter says you are going to provide me with permanent accommodation, why would I appeal? Response: Others would have. Could it be because two of the family were not living there?

(g) If the husband had now moved out, was the accommodation still suitable? Response: The offer of the two bedroomed property was not based upon this change, it was based upon the applicant sharing with one child and the information supplied by Hackney. We were only aware of the application to Hackney because they contacted us directly.

(h) What was the date of the letter in Appendix 6 (letter regarding size of household) dated? Response: 15 June 2007.

(i) What are the procedures for dealing with letters to Norway House? Response: They are sent by post to secure post boxes. The applicant stated that she normally collected her mail on Saturdays if a member of staff was in the office but their attendance was sporadic.

(j) Was the allocation of accommodation at Norway House based upon a family unit of five? Response: Yes, two rooms were allocated.

(k) Was the offer based upon those thought to be at Norway House at the time? Response: Yes the Council didn’t want to create a situation where any offered accommodation was under-occupied.

(l) Had the applicant viewed the offered accommodation? Response: Not that I am aware of, no.

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

The applicant stated that the offer of two bedroomed accommodation was ridiculous and had the effect of prolonging her homelessness out of spite. It hadn't made sense to discount her sons from the application and officers had been deliberately obstructive. She had never accepted the decision made by the Council.

The Chairman asked the Housing Options Manager if he wished to raise any further issues in support of his case.

The Housing Options Manager stated that the applicant's comments were unacceptable and he had presented the case in a balanced way. The applicant had not kept the Council informed of changes to her status and had been unaware of them until approached by Hackney Council which she had failed to disclose.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the applicant and the Housing Options Manager would be advised in writing of the outcome. The applicant, her children and the Housing Options Manager then left the meeting.

The Panel considered all the evidence submitted both in writing and orally. The Panel reached the following conclusions:

- (i) The true facts relating to this case were unclear;
- (ii) The housing application submitted to Hackney Housing by two of the children of the applicant was probably based upon false claims of residency on the balance of probability;
- (ii) That, given therefore that those children could not be considered as living at the Hackney Housing property and had been included in the original homelessness application made to the Council, contradictory to the claims made to Hackney Housing, the Panel can only conclude that they were living with their mother at Norway House and therefore comprised a household of five persons;
- (iii) The offer of two bedroomed accommodation to the applicant was not suitable for a household of five persons.

RESOLVED:

That based upon the evidence submitted, the Panel considered that there was insufficient evidence to determine that, on the balance of probabilities, the applicant's three children did not normally reside with her and that the offer of two bedroomed accommodation to the applicant was not suitable for a household of five persons. Therefore the appeal is upheld.

The Director of Housing withdrew from the meeting.

96. APPLICATION 3/2008

Members were advised that the applicant had stated on his application form to the Panel that he intended to attend the meeting in order to present his case. The Panel noted that the applicant had been advised to attend at 5.30pm but was currently not present at the Civic Offices.

RESOLVED:

That consideration of Application 3/2008 be deferred to a future Panel meeting to allow the applicant to attend.

CHAIRMAN