

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 21 June 2007

Place: Committee Room 2, Civic Offices, High Street, Epping **Time:** 1.30 - 2.55 pm

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

Other Councillors:

Apologies: R D'Souza

Officers Present: R Wilson (Assistant Head of Housing Services (Operations)) and G Lunnun (Democratic Services Manager)

49. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 22 May 2007 be taken as read and signed by the Chairman as a correct record.

50. SUBSTITUTE MEMBERS

It was noted that Councillor Rolfe was substituting for Councillor D'Souza at this meeting.

51. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

52. 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 the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item No	Subject	Exempt Information Paragraph Nos
6	Application No 4/2007	1 and 2

53. APPLICATION NO. 4/2007

The Panel considered an application for a review of a decision made by the Assistant Housing Needs Manager (Homelessness) acting under delegated authority that the applicant had made himself homeless intentionally. The applicant attended the meeting to present his case accompanied by his mother. Mr J Hunt (Assistant Housing Needs Manager (Homelessness)) attended the meeting to present his case. Mr R Wilson (Assistant Head of Housing Services (Operations)) 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) applicant's completed housing and homelessness application form dated 17 January 2007 together with notes of an interview of the applicant by a case officer dated 16 January 2007;
 - (ii) letter dated 15 January 2007 from the applicant's mother to whom it may concern;
 - (iii) letter dated 15 January 2007 from the Chelmsford Youth Offender Team to the Council's Homelessness Section;
 - (iv) applicant's birth certificate;
 - (v) letter dated 14 March 2007 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
 - (vi) decision of NACRO not to house the applicant;
 - (vii) letter dated 6 March 2007 from the Children's Legal Centre to the Council's Homelessness Section;
 - (viii) letter dated 15 March 2007 from the Assistant Housing Needs Manager (Homelessness) to the Children's Legal Centre;
 - (ix) letter dated 19 March 2007 from the Children's Legal Centre to the Assistant Housing Needs Manager (Homelessness);

- (x) letter dated 20 March 2007 from the Housing Needs Manager to the Children's Legal Centre;
- (xi) letter dated 29 March 2007 from the Children's Legal Centre to the Housing Needs Manager;
- (xii) a copy of the application to the Housing Appeals and Review Panel by the applicant dated 26 March 2007;
- (xiii) letter dated 2 April 2007 from the Head of Housing Services to the Children's Legal Centre;
- (xiv) letter dated 9 May 2007 from the Democratic Services Manager to the Children's Legal Centre;
- (xv) undated letter handed to the applicant on 9 February 2007 by the Assistant Housing Needs Manager (Homelessness);
- (xvi) Chapter 11 of the Homelessness Code of Guidance for Local Authorities;
- (xvii) letter dated 6 February 2007 from the applicant's doctor;
- (xviii) letter dated 25 April 2005 from the Department for Work and Pensions to the applicant's mother;
- (xiv) file notes associated with the applicant's homelessness application;
- (d) the case of the appellant;
- (e) copies of documents submitted by the applicant, namely:
 - (i) a copy of the application to the Housing Appeals and Review Panel dated 26 March 2007;
 - (ii) letter dated 29 March 2007 from the Children's Legal Centre to the Council's Housing Needs Manager.

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

- (a) the applicant was 16 years of age and had a diagnosis of ADHD; he was in receipt of Income Support and Incapacity Benefit; until recently he had been in receipt of Disability Living Allowance and was registered disabled;
- (b) the applicant had been educated at an EDB school, which was a residential school for boys with emotional and behavioural problems; he had a statement of educational needs; he had been at the residential school since he was 8 years old; he had left the school when he was 15; when he came home his mother had found it difficult to cope with him and it had been hard for his mother and his two younger brothers to cope with his aggression;
- (c) since leaving school the applicant considered that he had not received much help from statutory authorities;

(d) in January 2007 there had been an incident during which the applicant had damaged his mother's home following an argument with her; as a result he had appeared in court and was now having an input from the Youth Offending Team;

(e) Social Services were looking to organise a support package for the applicant; they now recognised that he did need help and assistance whereas previously he had been left to his own devices and had been sleeping in a car;

(f) the applicant had sought legal advice and did not consider that the decision that he was intentionally homeless was reasonable; the applicant did not consider that his actions which had led to his mother saying that he could no longer stay at her house should be treated as deliberate; the applicant did not think that he could have stopped acting as he did because of his medical condition and emotional condition; the applicant considered that the act he had carried out was as a result of limited mental capacity or a temporary aberration or aberrations caused by mental illness or frailty;

(g) the applicant's medical condition meant that when he was disturbed emotionally or had to handle stressful situations he could not cope very well and acted in a way that led to problems;

(h) in future, it was possible that the applicant might return home to live with his mother; however this was not considered a good idea at the present time because of the need for the applicant to receive proper support;

(i) the applicant was seeking to control his behaviour and was starting to manage better with the help he was receiving.

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

(a) Your doctor's letter dated 6 February 2007 states that at that time you were waiting to be taken on by Adult Mental Health; have you yet been assessed and are you currently receiving help from Adult Mental Health? – The applicant's mother indicated that her son had been seen once by Adult Mental Health and had another appointment within a few weeks; no diagnosis had yet been made;

(b) Is your mother's home still your family home? – Yes;

(c) What did you do at home when you were there during school holidays etc? – I tried to get out of the house as I could not cope with being in one place for a long period;

(d) You were at school for long periods; how did you cope there? – I had the benefit of supervision 24 hours a day, 7 days a week and had the opportunity to be taken out into a nearby forest;

(e) How long had you been at home when the incident occurred which resulted in your mother asking you to leave? – 10 months;

(f) How many incidents have there been at your mother's home? – Quite a few;

(g) When did you stay at your mother's home during term time? – Every other Friday evening until Sunday afternoon; during school holidays I was there all the time;

- (h) What accommodation would you like? – A flat, where I could look after myself and come and go as I wish;
- (i) Why did you leave your school? - I was excluded, was taken back for 10 days and then excluded permanently;
- (j) Do you know when you are about to lose your temper? – It just happens;
- (k) Why do you find it difficult to remain in a room for a long period? – I am hyperactive and I like to go out with my friends or take the dog out;
- (l) Are you involved in any sporting or similar activities? – No, because I cannot concentrate for long periods;
- (m) How long have you been on medication? – From age 5 until 15;
- (n) Why were you excluded from your school? – I could not conform to the rules, could not sit in a classroom for a long period; it was expensive for the Education Authority and a waste of their money to fund someone who was not prepared to do the work;
- (o) Did you always take your medication while at school? – No, nobody supervised this and I took it now and again; I am not taking medication at present because I suffered bad side effects from it;
- (p) What side effects have you suffered? – Heartburn;
- (q) Have you told anyone about these side effects? – Yes, but the issue was not pursued; my body is now used to the medication; its speeds up adults but has a reverse effect on children;
- (r) Has your doctor suggested any other medication? – No, I am happy with my current situation but the process with the Mental Health Authority is longwinded; I waited a year to see them and they now want to reduce the time of my appointment from one hour to 30 minutes;
- (s) What damage have you caused at your mother's home? – I put my head through the wall and the last time I drove my motorbike through the fence;
- (t) Do you have any contact with your father? – I talk to him on the phone sometimes;
- (u) How are your brothers affected when you are at home? – When I lose my temper they lock themselves in their bedroom and it worries me that I scare them;
- (v) Do you think you are capable of living alone in a flat? – Yes, I need more space and more responsibility;
- (w) Why did you not like the bed and breakfast accommodation provided by the Council? – It was too small and full of drug addicts; I did not want to be there and it was in my best interests to move out as I was threatened by others;
- (x) In what area would you like to live? – Loughton or Buckhurst Hill;
- (y) Would you like to be in a building with other young people? – No, because I would be likely to get into trouble;

(z) You appear to have suffered some injuries recently; how did those happen? – I fell off my motorbike;

(aa) How long did you have a motorbike? – Four weeks, before I smashed it up.

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 16 January 2007, completed a medical assessment form and signed the interview notes taken by his Case Officer;

(b) the applicant was a single young man aged 17 (16 when he made his application) who had been living at home with his mother; on 15 January 2007 the applicant's mother had asked the applicant to leave home;

(c) the applicant's mother had stated that she had asked her son to leave because he had damaged her property; the applicant had received a referral order from Chelmsford Magistrates Court because of the damage to his mother's property;

(d) the Council had accepted that the applicant was eligible for assistance as he was British, was homeless as he had been excluded from his home, and was in priority need because he was 16 years of age;

(e) on 14 March 2007, it had been decided that the applicant had made himself homeless intentionally as he had deliberately damaged his mother's property which had resulted in him ceasing to occupy his home;

(f) the applicant had been offered advice and assistance and referrals had been made to NACRO for accommodation; the applicant had been offered an additional period in bed and breakfast accommodation whilst he pursued alternative accommodation and the applicant had been made aware of his entitlement to seek a review of the decision to deem him intentionally homeless; a copy of the letter had also been sent to the Children's Legal Centre who had expressed concern about the applicant's situation;

(g) the applicant had been asked to leave the bed and breakfast accommodation as a result of his behaviour and he had been informed that the Council would not provide further interim accommodation pending the outcome of enquiries;

(h) Chapter 11 of the Code of Guidance on Homelessness advised local authorities on the interpretation of intentionally homeless and this had been taken into account;

(i) the applicant had damaged his mother's property following an argument with her and it was considered that the damage had been a deliberate act; the accommodation would have continued to be available to the applicant for his occupation had he not damaged the property; it was considered reasonable for the applicant to occupy the accommodation as this was his family home where he normally resided;

(j) consideration had been given to the applicant's personal circumstances; the applicant's GP had advised that the applicant was known to have a diagnosis of Attention Deficit Hyperactivity Disorder and learning difficulties and had previously attended a child development clinic; account had also been taken of the fact that the

applicant's mother received disability living allowance for the applicant and that the applicant had attended a residential school because of difficulties he had experienced in his education; however, taking all these matters into account it was considered that the applicant would still have had the mental capacity to understand that damaging his mother's home would have had the likely consequence of him being asked to leave and result in his homelessness.

The Assistant Housing Needs Manager (Homelessness) answered the following question of the Panel:-

(a) Can you clarify the timescale in relation to the homelessness application, the applicant's doctor's comments and the decision made on the homelessness application? – The applicant made a homelessness application to the Council on 16 January 2007; the Council received a letter dated 6 February 2007 from the applicant's GP; the decision that the applicant had made himself homeless intentionally was made on 14 March 2007.

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

The applicant's mother stated that two days prior to asking her son to leave, two youths looking for her son had attempted to kick in her front door and had damaged her garage door. The applicant had asked her to install CCTV to capture any further such incidents but she had refused. Matters had escalated from that incident and when the applicant had damaged the property she had reached breaking point and had asked him to leave.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case.

The Assistant Housing Needs Manager (Homelessness) pointed out that the applicant was currently spending some time at the family home and some time with friends.

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, his mother and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel focussed on the applicant's behaviour in the family home which had led to him leaving that accommodation, the advice included in the Code of Guidance on Homelessness relating to a deliberate act, and the representations made about the applicant's medical history. The Panel concluded that the applicant had become intentionally homeless.

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 applicant had become intentionally homeless, be upheld for the following reasons:

(a) the applicant failed to conduct himself in an acceptable manner in the family home and as a result he was told to leave the property by his mother; there is no evidence to suggest that the act which led to the applicant having to leave the property was made when the applicant was under duress;

(b) had it not been for the applicant's unacceptable behaviour in the family home, the property would have been available and reasonable for him to have continued to occupy;

(c) account has been taken of the submissions about the applicant's medical history; on balance, there is no reason to believe that the applicant is incapable of managing his affairs, by reason of age or mental illness; on balance, it is considered that the applicant has the mental capacity to understand the likely consequences of damaging the family home;

(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; and

(3) That the officers refer the applicant to Social Care to seek their assistance under the terms of the Children Act 1989.

CHAIRMAN