

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Tuesday, 29 January 2008

Place: Committee Room 2, Civic Offices, High Street, Epping **Time:** 2.30 - 5.50 pm

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

Other Councillors:

Apologies: R D'Souza

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

97. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 20 December 2007 be taken as read and signed by the Chairman as a correct record.

98. SUBSTITUTE MEMBERS

It was noted that Councillor B Sandler was substituting for Councillor R D'Souza.

99. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Code of Conduct for Members.

100. 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:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Numbers</u>
6	Application No. 12/2007	1 and 2
7	Application No. 14/2007	1 and 2

101. APPLICATION NO. 12/2007

The Panel considered an application for a review of a decision made by officers under delegated authority regarding the applicant's homelessness application. The applicant attended the meeting accompanied by his solicitor and his wife. Mr J Hunt (Assistant Housing Options Manager) attended the meeting to present his case. Mr A Hall (Director of Housing) 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 appellant, his wife and his solicitor and outlined the procedure to be followed in order to ensure that proper consideration was given to the application.

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

- (a) copies of documents submitted by the applicant, namely:
 - (i) a copy of the application to the Housing Appeals and Review Panel dated 1 November 2007;
 - (ii) letter dated 8 November 2007 from the applicant's solicitor to the Council's Housing Services;
 - (iii) letter dated 21 December 2007 from the applicant's solicitor to the Council's Housing Services;
 - (iv) letter dated 11 January 2008 from the applicant's solicitor to the Council's Housing Services;
 - (v) letter dated 28 January 2008 from the West Essex Community Drug and Alcohol Team to "Whom it may concern";
 - (vi) response dated 13 June 2007 from the applicant to the Council's Housing Benefits Section's letter dated 11 June 2007;
 - (vii) letter dated 14 June 2007 from the Council's Housing Benefits Section to the applicant;
 - (viii) letter dated 18 June 2007 from the Council's Housing Benefits Section to the applicant on which the applicant had written some answers to the questions raised in the letter;
 - (vix) receipts dated 31 May 2007, 5 June 2007, 7 June 2007, 8 June 2007, 12 June 2007, 13 June 2007, 14 June 2007, 18 June 2007, 22 June 2007, 7 August 2007, 21 August 2007 and 22 August 2007 issued by the Council's Housing Benefits Section for documents provided by the applicant;
- (copies of (v) to (vix) above were produced by the applicant at the meeting)
- (b) the facts of the case;
- (c) the case of the Assistant Housing Options Manager;

- (d) copies of documents submitted by the Assistant Housing Options Manager, namely:
- (i) Order for Possession of the applicant's privately rented property;
 - (ii) notes of an interview of the applicant by a Housing Officer dated 17 May 2007;
 - (iii) letter dated 12 September 2007 from the Council's Medical Advisor to the Council's Housing Services;
 - (iv) notes of an interview of the applicant's landlord of the privately rented property by a Housing Officer, dated 30 May 2007;
 - (v) letter dated 12 June 2008 from the applicant's landlord of the privately rented property to the Council's Housing Benefits Section;
 - (vi) letter dated 21 June 2007 from the Council's Benefits Manager to the applicant;
 - (vii) notes of an interview of the applicant by a Housing Officer dated 21 September 2007;
 - (viii) letter dated 19 October 2007 from the Council's Assistant Housing Needs Manager (Homelessness) to the applicant.

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

- (a) the applicant had bought a Council property in 2000 in an adjoining borough under Right to Buy; in that year the applicant's medical condition had deteriorated due to a number of accidents and in August 2000 his wife had stopped working to act as his full time carer; the applicant had suffered an accident at work and had permanent damage to his back; he suffered with depression which had started a few months after his work accident; in 2002 it had been established that the applicant stopped breathing in his sleep and had to use a CPAT machine that pushed air into his airway at night; this condition had resulted in the applicant having to stop taking painkillers for his back and as a result he had become dependent on alcohol and non-prescription drugs to relieve the pain; five years ago the applicant had become agrophobic and could only deal with most matters by post or telephone; the applicant was now confined to a wheelchair when going out;
- (b) the applicant was in receipt of Incapacity Benefit, Industrial Injuries Benefit, Disability Living Allowance - lower rate for the care component and higher rate for the mobility component;
- (c) the applicant and his wife had been in receipt of Income Support from August 2000; they had applied for Mortgage Interest payments but these had not been awarded; the mortgage on the property had been paid by borrowing money from family members;
- (d) due to his financial problems, the applicant had suffered drug and alcohol problems which had led to mental health problems for which he had received psychiatric assistance and drug and alcohol counselling;
- (e) when the applicant had realised that he could not maintain the mortgage repayments, he had decided to sell the property in October 2004; he had received

£110,000 from the proceeds of the sale and had paid off £38,000 in credit card debts and a £30,000 loan to his father; the applicant had been left with £48,000 and Income Support had been stopped; the applicant had spent £300/£500 pound per week on his drug and alcohol addiction; other payments had been made by the applicant as set out in the Income Support submission attached to the applicant's solicitor's letter dated 11 January 2008;

(f) the applicant, his wife and daughter had then rented three bedrooms above a public house at a rent of £210 per week; in March 2006 the applicant had rented a three bedroom house from a private landlord in the Epping Forest District; he had paid the rent on that property until his money had run out and he had then applied for Income Support, Housing Benefit and Council Tax Benefit from June 2006;

(g) the applicant had received Income Support and £600 in Housing Benefit from June 2006; he had made up the balance of the rent (£250 per month) himself;

(h) the applicant's Income Support had been stopped in December 2006 and his Housing Benefit and Council Tax Benefit had been stopped shortly thereafter as it had been alleged that he had capital/savings of more than the applicable amount;

(i) with the assistance of the Citizens' Advice Bureau, the applicant had appealed against the Income Support, Housing Benefit and Council Tax Benefit decisions; the Income Support appeal had been due to be heard in December 2007 but had been adjourned to March 2008 as further evidence had been provided which needed to be considered by the parties; his Housing Benefit appeal had not yet been scheduled;

(j) when Housing Benefit and Council Tax Benefit had been stopped, the applicant had been unable to pay his rent and he had received Notice Seeking Possession from his landlord due to rent arrears in January 2007; the landlord had not wanted to evict the applicant as the applicant had been a good tenant in all other respects;

(k) the applicant had sought assistance from the Council's Housing Services and had made a homeless application; the applicant had provided the Council's Housing Benefits Section with a large amount of information over a number of weeks in an attempt to resolve the Housing Benefit issues;

(l) the Housing Benefit issues had not been resolved and the applicant had been evicted in June 2007; the applicant had been accommodated by the Council and Housing Benefit had been awarded from August 2007; a further appeal had been lodged to have Housing Benefit backdated to June 2007;

(m) the applicant had subsequently been advised that he had made himself intentionally homeless as he had not paid the rent on the privately rented property;

(n) if it was held that the applicant had been entitled to Income Support at the relevant time, he would also have been entitled to Housing Benefit at that time and would have been able to pay his rent;

(o) the applicant had not acted in bad faith and had not wilfully withheld rent; he had acted in good faith as he had lived off the proceeds of the sale of his property for as long as possible and had only claimed Income Support and Housing Benefit when he no longer had any money left;

(p) the applicant had provided the Department of Work and Pensions, and the Council, with all the information they had required in relation to the Income Support and Housing Benefit claims; if the claims had been determined more speedily, the applicant would not have been evicted from the privately rented property;

(q) the Council had made its decision about intentionally homeless too quickly; it should have awaited determination of the Income Support and Housing Benefit appeals because if these were favourable to the applicant, it would show that the rent arrears should not have arisen; the failure to receive Housing Benefit had made the applicant homeless.

The applicant, his solicitor and his wife answered the following questions of the Assistant Housing Options Manager and the Panel:-

(a) You have said that you provided the required information to the Housing Benefits Section; if that is correct, why does the letter from the Council's Benefits Manager dated 21 June 2007 state that you had failed to provide satisfactory evidence as to how you had reduced your capital/savings to less than £16,000? - The Housing Benefit Section did no research of their own; they copied what the Department of Work and Pensions had determined; receipts were provided; the letter dated 21 June 2007 was after our eviction on 20 June 2007;

(b) You were £3,400 in arrears with the rent for your privately rented property when you were evicted, is that correct? - Yes, four months' rent;

(c) Did you receive approximately £100,000 from the sale of your property in 2005 and had you disposed of all of that money by February 2007? - Yes, and I am still in debt; I had a serious drink and drug problem; when Income Support and Housing Benefit were stopped, we pawned all of our jewellery to pay the rent for the privately rented property; we did not want to leave the property;

(d) Can you clarify how much money you were in receipt of after the sale of your property in 2005? - £80,000;

(e) The documents before us refer to £110,081.79 - which figure is correct? - It was £80,000 after clearing the mortgage, i.e., £80,000 equity;

(f) Did you spend between £300/£500 per week on drink and drugs? - It was £300/£500 per day not per week;

(g) Do you have any receipts for that expenditure? - No, I am now receiving treatment for my addiction;

(h) Do you have receipts for the other expenditure? - Yes;

(i) The breakdown of your expenditure is set out in the Citizens' Advice Bureau Income Support submission document; what income did you receive over that period? - I get Income Support and Housing Benefit now; it is the backdating element to which the outstanding appeals relate;

(j) Can you describe how you felt after you were forced to sell your property in November 2005? - It was a part of my life when I did not know where I was; I cannot recall matters clearly; I repaid my father and paid off credit cards as soon as I was in receipt of the proceeds of the sale;

(k) The letter dated 21 June 2007 from the Council's Benefits Manager concluded that you still had capital in excess of £16,000; what information did you provide to show that this was not the case? - Bank statements showing I had no money in the bank;

(l) What evidence had you submitted by the time of the Council's decision letter dated 19 October 2007 finding you intentionally homeless? - By that time, receipts had been personally handed to the Housing Benefits Section; (at this stage the applicant produced copies of receipts from the Housing Benefits Section, for documents submitted);

(m) Are you in a wheelchair as a result of your accident at work? - Yes, it was an industrial accident; I took the firm to Court and was awarded £42,000 but Income Support took £39,000 from me; I have been disabled for nearly 20 years; I became addicted to painkillers and I binged on drugs; I became involved with the wrong people and carried out illegal activities to help fund my addiction; I am now finished with drugs; I am still drinking a little but I am receiving treatment; I need a detox urgently but need to resolve my problems first.

The Panel considered the following submissions of the Assistant Housing Options Manager:

(a) the applicant had made a homelessness application to the Council on 17 May 2007; the applicant had included his wife on the application form; the applicant had applied as homeless because he had been evicted from his privately rented accommodation;

(b) the applicant's tenancy of the privately rented accommodation had commenced on 7 March 2006; on 6 January 2007 the applicant had received from his landlord a notice requiring possession which had expired on 7 March 2007; the applicant had received an order for full possession from the Courts which had required him to give up possession of the property on 1 May 2007; the applicant had finally received a bailiff's warrant to evict him from the property on 20 June 2007;

(c) at his homelessness interview, the applicant had stated that rent arrears had accrued due to him being unable to pay the rent and not receiving Housing Benefit; an interim duty to accommodate the applicant had been accepted by the Authority pending enquiries as it was considered that the applicant was eligible for assistance, homeless and may have had a priority need; further enquiries resulted in the Council being satisfied that the applicant had a priority need due to him being vulnerable;

(d) the landlord of the applicant's privately rented property had informed the Council that notice had been served on the applicant because of rent arrears; the landlord had stated that he was otherwise satisfied with the way in which the applicant had conducted himself as a tenant and had the rent been paid, the applicant would have remained as a tenant; the rent arrears had amounted to £3,400 as at 30 May 2007;

(e) the letter dated 21 June 2007 from the Council's Benefits Manager set out the reasons why the applicant had not been entitled to receive Housing Benefit;

(f) it had been decided that the applicant had made himself intentionally homeless and he had been given notice to leave the Council's homeless hostel; the applicant had requested a review of that decision and the applicant's solicitor had requested that the Council exercise its discretion to accommodate the applicant pending the outcome of the review; this request had been agreed.

(g) in making homelessness decisions, regard needed to be had to the Code of Guidance which was used by local authorities to assist with the interpretation of the homelessness legislation; the Code of Guidance stated that a person became homeless intentionally if he deliberately did something in consequence of which he ceased to occupy accommodation which was available for his occupation and which would have been reasonable for him to continue to occupy;

(h) the applicant had been evicted from his privately rented property because of rent arrears; the rent arrears had accrued because the applicant had not been entitled to Housing Benefit; the applicant had not been entitled to Housing Benefit because it had been determined that he had capital of more than £16,000; the applicant had owned a property in an adjoining borough and when that property had been sold in November 2005, the applicant had received £110,081.79; two months later, the applicant's savings had allegedly been reduced to less than £16,000; the applicant had advised the Housing Benefit Section that the money had been spent on paying off debts and dealing with other expenditure; the Housing Benefit Section had asked the applicant to account for the disposal of this money but the applicant had failed to provide sufficient evidence of how the money had been disposed of; the Housing Benefit Section had cancelled the applicant's claim for Housing Benefit on 24 May 2007;

(i) it was considered that the applicant's failure to pay the rent had been a deliberate act and that it had led to him ceasing to occupy accommodation which would have continued to be available for his occupation had he not failed to pay the rent; it was also considered that it would have been reasonable for the applicant to occupy the accommodation as it had been a three bedroom house which had been more than sufficient for his needs;

(j) the Panel was invited to uphold the officer's decision.

The Assistant Housing Options Manager answered the following questions of the applicant, his solicitor, his wife and the Panel:-

(a) Do you agree that you made the intentionally homeless decision prematurely because the Income Support and Housing Benefit issues were, and still are ongoing? - No, a decision had to be made on the facts as known; it would not be reasonable to delay determining a homelessness application for 10/11 months;

(b) Could you not have extended the date for making a decision? - The guideline is to make a decision within 33 working days; in my experience at this Authority and other local authorities, I am not aware of any such decision being outstanding for almost a year;

(c) Could you clarify the dates of the applicant's occupation of the privately rented property and his rent arrears? - The tenancy commenced on 7 March 2006 and the applicant was evicted on 20 June 2007; as at 30 May 2007 the applicant had been four months in arrears with his rent; Housing Benefit had been cancelled on 24 May 2007 and no benefit had been paid after that date;

(d) Where have the receipts gone which were given to the Council showing how the applicant's capital/savings had been expended? - I am employed in the Council's Housing Services and deal with homeless cases; the information you are referring to would have been requested by the Council's Housing Benefits; I have the Housing file with me and the applicant's Solicitor has a copy of that file; I am not able to comment on any receipts which may have been submitted to Housing Benefits; the

decision on Housing Benefits was made by the Council's Benefits Manager and he concluded that on the balance of probabilities, it was reasonable to conclude that the applicant had capital in excess of £16,000; the issue before this Panel is a review of the decision that the applicant did something as a consequence of which he ceased to occupy the privately rented property;

(e) Is the applicant receiving Housing Benefit now? - Yes, but that is not the issue; the matter before the Panel is to review what happened during the applicant's occupation of the privately rented property; the applicant had rent arrears and his landlord sought possession of the property; the Housing Benefits Section determined at that time that satisfactory evidence had not been produced to show how the applicant's proceeds from the sale of his former property had been disposed of; there is a need to look at why the applicant became homeless and why he had been in arrears with his rent;

(f) When I came to the Civic Offices, a Housing Officer tried to help resolve my issues with Housing Benefit but she had difficulty; would she have tried to help me if she had been of the view that I had deliberately failed to pay rent; - I would expect Housing Officers to assist whatever the circumstances;

(g) Do you have copies of the applicant's bank statements on the Housing file? - I do not recall seeing any such statements on the file (at this point the applicant's solicitor drew attention to statements on the file and the Assistant Housing Options Manager apologised for not being aware of the existence of these statements on the file); however, the bank statements in themselves would not have been sufficient evidence to satisfy the Housing Benefits Section; Housing Benefits would have needed to see evidence of where the money had been disposed of;

(With the agreement of both parties, the Chairman requested that additional questions be put to the applicant. The applicant was asked:

A lot of money appears to have been taken from your bank account in cash; what was that money used for? - The applicant advised that this money had been used to satisfy his drink and drug addiction. In response to a question to the applicant's wife, she advised that she had been aware of the withdrawals of cash from the bank account as it had been a joint account although each party had been able to withdraw money without reference to the other.

At this stage, questions were again directed to the Assistant Housing Options Manager).

(h) Were you aware of the details set out in the Income Support submission when you took your decision about the applicant being intentionally homeless? - The applicant admitted spending money on debts, accommodation, alcohol, drugs etc., but I did not know how much of the proceeds from the sale of his house had been spent on these matters;

(i) Do you have any details of the applicant's wife's income? - I am not sure of what income she may have had.

The Chairman asked the applicant if he wished to raise any further issues in support of his case. The applicant's solicitor submitted that the officer's decision had been premature and that the time for determining the homeless application should have been extended with the agreement of the applicant. She further submitted that the applicant had provided all of the information necessary to resolve the Housing Benefit issue. If that information had been processed properly, the Council would

have determined that the applicant had been entitled to Housing Benefit and he would have been able to continue to pay the rent on the privately rented property. The applicant had not deliberately failed to pay the rent and had acted in good faith throughout. He had tried to resolve matters but had not been helped by the authorities. The applicant added that the issues had damaged his own and his wife's health and that they were continuing to suffer stress. He pointed out that his wife had tried to commit suicide due to the housing issue.

The Chairman asked the Assistant Housing Options Manager if he wished to raise any further issues in support of his case. The Assistant Housing Options Manager advised that the applicant had not paid the rent in respect of his privately rented property and, as a result, had become homeless. The applicant had received a large amount of money from the proceeds of the sale of a property and satisfactory evidence had not been provided to the Council's Housing Benefits as to how that money had been disposed of. The privately rented property would have continued to be available to the applicant had he not failed to pay the rent and that property would have been reasonable for him to occupy.

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

The Panel considered all of the evidence and focused on the applicant's non-payment of rent in respect of his privately rented accommodation and the background to the decision that he had not been entitled to Housing Benefit. The Panel noted that the Housing Benefits Manager had concluded on the balance of probabilities that the applicant had capital in excess of £16,000. In the absence of evidence to the contrary, the Panel concluded that insufficient evidence had been provided to the Council's Housing Benefits to show how and how much of the applicant's capital/savings had been disposed of. The Panel had regard to the receipts handed to the applicant by the Housing Benefits Section in respect of submitted documents but concluded that these documents had been taken into account by Housing Benefits but had not provided sufficient evidence. The Benefits Manager had stated that no receipts for expenditure had been provided and the applicant had admitted himself that some receipts could not be provided as they had been lost.

The Panel considered whether any deficiency or irregularity had been identified in the original homelessness decision made by the officers or the manner in which it had been made. The Panel found no such deficiency or irregularity.

The Panel determined that the officer's decision be upheld and discussed the period which the Council should continue to provide interim accommodation for the applicant.

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 Options Manager in writing and orally, the decision of the Assistant Housing Options Manager that the applicant was intentionally homeless be upheld for the following reasons:

(a) the applicant failed to pay the rent for the privately rented property he occupied from 7 March 2006 until 20 June 2007; that property would have continued to be available for occupation by the applicant had he continued to pay the rent; that property was suitable for his needs and it would have been reasonable for him to have continued to occupy it;

(b) account has been taken of the applicant's submissions that he was entitled to Housing Benefit after 24 May 2007 and that had he continued to receive Housing Benefit, the privately rented property he occupied at that time would not have been repossessed due to rent arrears; however, based on the information submitted it is considered that the applicant failed to provide satisfactory evidence to the Housing Benefits Section to explain how he disposed of his capital of £110,081.79 obtained following the sale of his former property; the applicant has admitted that he was unable to provide some of the documents requested as he had lost or shredded them; it is also noted that the applicant's appeal against the refusal of Income Support was dismissed in March 2007 because he was unable to provide any realistic explanation or provide any evidence of how he had disposed of his money;

(c) had the applicant provided the Housing Benefit Section with the evidence required to demonstrate satisfactorily where his capital had been disposed of, he may have continued to receive Housing Benefit, been able to continue to pay his rent and not had his property repossessed;

(d) account has been taken of receipts produced at the Panel meeting, for documents submitted to the Housing Benefits Section, but there was no evidence submitted to indicate that the documents provided the required information to the Housing Benefits Section;

(e) 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;

(2) That, based on the evidence submitted, no deficiency or irregularity has been identified in the original homelessness decision made by the officers or the manner in which it was made;

(3) That the Council continues to provide interim accommodation for the applicant for a period of up to two months 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.

102. APPLICATION NO. 14/2007

The Panel considered an application for a review of a decision made by officers under delegated authority that the applicant had become homeless intentionally from temporary accommodation provided by the Council and as a result the duty on the Council to provide him with temporary accommodation had been discharged. The applicant attended the meeting to present his case accompanied by his solicitor. Mr J Hunt (Assistant Housing Options Manager) attended the meeting to present his case assisted by Mr P Dee (Deputy Hostel Manager). Mr A Hall (Director of Housing) 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 his

solicitor and outlined the procedure to be followed in order to ensure that proper consideration was given to the application.

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

- (a) copies of documents submitted by the applicant, namely:
 - (i) a copy of the application to the Housing Appeals and Review Panel dated 10 October 2007;
 - (ii) letter dated 12 October 2007 from the applicant's solicitor to the Council's Housing Services;
 - (iii) letter dated 21 December 2007 from the applicant's solicitor to the Council's Housing Services;
- (b) the facts of the case;
- (c) the case of the Assistant Housing Options Manager;
- (d) copies of documents submitted by the Assistant Housing Options Manager, namely:
 - (i) copy of the applicant's licence to occupy a room at the Council's hostel dated 14 November 2006;
 - (ii) Hostel Manager's summary of events regarding the applicant's occupancy of a room at the hostel;
 - (iii) letter dated 17 September 2007 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
 - (iv) letter dated 24 September 2007 from the Assistant Housing Needs Manager (Homelessness) to the applicant.

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

- (a) the applicant had not breached the conditions of his licence; his absence from the hostel from 19 September 2007 until 3 October 2007 had been due to him staying at his cousin's house in order to look after his cousin's dogs whilst his cousin was on holiday; before that absence both the applicant and his cousin had attempted to contact staff at the hostel on a number of occasions but each time the office had been closed; the applicant had continued to telephone the office but had been unable to contact anyone to advise that he would be away from the hostel for two weeks;
- (b) the applicant had also been absent from the hostel for one or two nights on two occasions and he had advised the hostel staff of those absences;
- (c) the applicant's rent arrears had accrued due to the fact that he had not had the money to pay the rent; his only income had been Job Seekers Allowance and it had been necessary for him to visit his elderly mother at a care home several times each week; if he had not visited his mother she would have suffered a setback in her medical condition as she looked forward to seeing him; the applicant had to spend a

lot of money on travel to the care home and when he had explained this to staff at the hostel, they had accepted that he could pay less rent on those weeks;

(d) it was possible that hostel staff might have discussed the rent arrears with the applicant but, due to his learning difficulties, he was not able to understand complex information unless it was explained slowly and in very simple terms;

(e) the applicant had not received letters from the Council; the applicant had learning difficulties and was unable to read or write and could only read his name; if letters had been placed underneath his door at the hostel, he might not have received the letters because if the letters had not been pushed all the way under the door, children tended to remove them; even if the applicant had received letters from the Council, which he denied, he would not have been able to read them;

(f) the applicant had been able to borrow money and was now in a position to clear the arrears in full; he had only recently received an invoice in respect of those arrears;

(g) when the applicant had moved into the hostel on 14 November 2006, he had been advised that this would be only temporary and that he would have to wait nine-twelve months to get permanent accommodation; this timescale had not been met; the Code of Guidance referred to someone deliberately doing something or failing to do something in consequence of which he ceased to occupy accommodation; the officers should have investigated further as to why breaches of the licence agreement had arisen before making their decision;

(h) the applicant's mother had now passed away and, as a result, the applicant had no-one to help him manage his affairs.

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

(a) Do you accept that on two separate occasions, you were told orally about your rent arrears and absences from the hostel and that if these continued, there was a risk of you being made homeless? - If letters were put under the door of my room at the hostel, they were not necessarily received;

(b) Do you agree that on two occasions you were told orally about the consequences of your actions? - My mother was ill and was getting worse and it was necessary for me to visit her;

(c) The record shows that you were absent from the hostel for long periods on a number of occasions, do you agree with this record? - I spent two weeks at my cousin's property in order to look after his dogs while he went on holiday; on another occasion, I was visiting a friend's house and missed the last train;

(d) How many face-to-face contacts did you have with staff at the hostel? - I didn't understand what was being said;

(e) Did you understand that you needed to pay rent for the accommodation? - Yes;

(f) Why did you not pay the rent? - It was costing me a fortune to visit my mother at the care home and I could not afford to pay the rent.

The Panel considered the following submissions in support of the Assistant Housing Options Manager's case:

(a) the applicant was a single man; he had been living with his parents in a Council property when his father had died and his mother had been admitted into a nursing home which had left him the sole occupant of the property with no rights to live there; he had been served with Notice to Quit and had made a homelessness application to the Council on 27 April 2006;

(b) the applicant had been accepted as statutorily homeless and owed a duty to be housed; the duty on the authority had been to ensure that temporary accommodation was made available to the applicant; the duty had been fulfilled by providing the applicant with accommodation at the Council's hostel and the applicant had moved into the hostel on 14 November 2006;

(c) the applicant's licence agreement listed the obligations of the landlord to the licensee and also the responsibilities of the licensee whilst in occupation of the accommodation; staff at the hostel were experienced in dealing with learning difficulties and would have explained carefully the responsibilities of the licensee;

(d) the licence agreement required for the applicant to report all absences from the hostel to staff on site; there was also a requirement to follow the signing-in process on a daily basis; approval had to be sought from the Hostel Manager for all absences of longer than one night and any unauthorised absence could result in the termination of the licence to occupy; there were forty-six different households at the hostel and the procedures were necessary in order to ensure proper management of the hostel; any telephone call made outside of office hours was transferred to the Civic Offices Standby Officers who were present twenty-four hours a day; the applicant had contacted the Standby Officers on a number of occasions and it was not understood why he had not been able to contact them on other occasions;

(e) the licence agreement also required the applicant to pay £32.80 per week in advance on each successive Monday, the first payment to be made on 13 November 2006;

(f) letters had been sent to the applicant regarding the breach of his licence in respect of non-occupation on four occasions (10 February, 3 April, 1 May and 13 September 2007) and four times regarding arrears (8 February, 23 February, 26 July and 10 September 2007); in addition, the Hostel Manager had informed the applicant orally in person on 17 July 2007 that he would be evicted if he did not comply with the procedure to sign-in to prove that he was occupying his room at the hostel;

(g) the applicant had been in receipt of Housing Benefit which meant that he personally only had to pay the balance of the weekly charge for his room of £5.14; a payment plan to reduce the applicant's arrears had been made with the applicant on 5 March 2007 in which he had agreed to pay £10 per fortnight in addition to his weekly charge; the Deputy Hostel Manager had informed the applicant orally that failure to keep to this plan would result in him being evicted;

(h) despite the letters and oral warnings, the applicant had not kept to his payment plan or complied with the requirement to occupy his room; on 17 September 2007, the applicant had been served with notice which terminated his licence to occupy a room at the hostel on 24 September 2007;

- (i) the applicant had been asked to attend an interview at the Civic Offices with a Homelessness Officer in order to consider whether this Council's duty to accommodate him had been discharged; the applicant had not attended this appointment and on 24 September 2007 notice had been served discharging the Council's duty to accommodate the applicant because it was considered that he had made himself homeless intentionally;
- (j) the Council had exercised its discretion to accommodate the applicant pending the outcome of this review and he had been provided with bed and breakfast accommodation;
- (k) in making homelessness decisions, the Council had to take account of the Code of Guidance which was used by local authorities to assist with the interpretation of the homelessness legislation; the Code stated that a person became homeless, or threatened with homelessness, intentionally if he deliberately did something in consequence of which he ceased to occupy accommodation that was available for his occupation and was reasonable for him to continue to occupy; the Code of Guidance continued that an authority would cease to be subject to the duty (to accommodate) if an applicant became homeless intentionally from temporary accommodation made available;
- (l) the applicant's failure to comply with his licence requirements to occupy his room and pay the balance of the weekly charge were considered to have been deliberate acts on his part, the consequence of which was that he had been served with notice after receiving eight written and two oral warnings;
- (m) the accommodation occupied by the applicant at the Council's hostel would have continued to be available to him, had he complied with his licence conditions; that accommodation would also have been reasonable for him to continue to occupy as he had a single room that was sufficient for his needs and support was available from the hostel staff;
- (n) the applicant had failed to pay his weekly licence charge despite repeated warnings; the hostel staff had been aware of the applicant's learning difficulties and had ensured that he had been told orally of the consequences of breaching the conditions of his licence; the applicant had been fully aware that breaching the terms of his licence would lead to him being made homeless;
- (o) taking account of the applicant's learning difficulties, it was not considered that he was incapable of managing his affairs, and support had been available to him at the hostel;
- (p) the Panel was invited to uphold the officer decision and, if upheld, to give the applicant reasonable notice to vacate his bed and breakfast accommodation and offer advice in assessing alternative accommodation.

The Assistant Housing Options Manager answered the following questions of the applicant, his solicitor and the Panel:-

- (a) Being aware of the applicant's learning difficulties, were any steps taken to refer the applicant to Social Care for assistance? - The hostel staff have two roles: they enforce licence conditions but also support the residents; a support plan is drawn up for each resident initially which identifies the resident's needs; the staff attempted to assist the applicant by explaining the conditions of his licence agreement and telephoning him on occasions in order to ascertain his whereabouts;

- (b) Was any referral made to another agency? - No;
- (c) Did the applicant provide any details of his income? - I understand that he was in receipt of benefits including full Housing Benefit and, as a result, leaving him to find only £5.14 per week;
- (d) What other benefits did the applicant receive? - Possibly Income Support or Incapacity Benefit (the applicant advised that he had been in receipt of Income Support);
- (e) Did the applicant provide any evidence of employment? - No;
- (f) Can you clarify what had been said to the applicant when he had first attended the hostel? - When a new person arrives, the staff explain orally the conditions of the licence agreement; an officer had advised the applicant accordingly; a support plan is drawn up and this is subsequently reviewed;
- (g) Are you satisfied that you did everything possible to assist the applicant? - Yes, the office is manned eight hours a day and there is an opportunity for any resident to come to the office during those hours to raise any problems and to have face-to-face contact with staff.

The Chairman asked the applicant's solicitor if she wished to raise any further issues in support of the applicant's case. The solicitor submitted that the officers should have taken greater account of the applicant's previous protected environment and his learning difficulties. She submitted further that without repeated warnings, the applicant would not have appreciated the consequences of his actions.

The Chairman asked the Assistant Housing Options Manager if he wished to raise any further issues in support of his case. The Assistant Housing Options Manager submitted that the applicant had made himself intentionally homeless. The hostel staff have been aware of the applicant's learning difficulties and had ensured that in addition to sending letters to the applicant, they had advised him orally of the consequences of breaching the conditions of his licence. The applicant had not followed the advice given to him by the staff and the breach of the conditions of his licence was considered to have been a deliberate act on his part which had led to him ceasing to occupy the accommodation at the hostel. The record indicated that the applicant had been absent from the hostel for several weeks at a time on a number of occasions and not on the limited occasions referred to in the applicant's submissions. The record showed that the applicant had telephoned the Council's Standby Officers on a number of occasions to advise of an absence and so it was clear that he was aware of his obligations in this respect that he had failed to follow that procedure on subsequent occasions.

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

The Panel considered all of the evidence and focussed on the applicant's ability to manage his affairs and his understanding of the implications of his actions. The Panel concluded that staff at the hostel had acted correctly and in good faith throughout their dealings with the applicant but that the applicant required a level of support which was not possible from the hostel staff alone. Members drew attention to the previous sheltered life of the applicant and the stress he had suffered in coping with his mother's illness. They concluded that the staff had been unaware of the

extent of the applicant's learning difficulties. The Panel determined that the applicant had not become homeless intentionally from the Council's hostel and that the duty on the Council to provide the applicant with temporary accommodation had not been discharged.

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 Options Manager in writing and orally, the decision of the Assistant Housing Options Manager that the applicant had become homeless intentionally from temporary accommodation provided by the Council and, as a result, the duty on the Council to provide him with temporary accommodation has been discharged, been not upheld for the following reasons:

(a) the applicant did not deliberately -

(i) fail to seek approval from the Council's hostel staff due to absences from the hostel of longer than one night; or

(ii) fail to pay the licence fee in respect of his accommodation at the hostel,

as it is considered that, due to his learning difficulties, the stress of coping with his mother's illness and his subsequent failure to act independently following the death of his mother, he was incapable of properly managing his affairs at that time;

(b) account has been taken of the support provided to the applicant by staff of the Council's hostel and to the warnings he was given both in writing and orally about the consequence of breaking the terms of his licence agreement; it is acknowledged that there is evidence of the applicant understanding and reacting to some of those warnings and it is considered that the staff at the hostel provided the correct level of support; however, it is concluded that due to the applicant's state of mind which would not have been apparent other than to a qualified practitioner, there would have been a need to provide an enhanced level of support, including the need to constantly remind the applicant orally of his obligations under the terms of the licence; such level of support would not have been possible having regard to the other duties and responsibilities of the hostel staff;

(2) That, subject to his agreement and if not already in place, the applicant be referred to the In Touch Floating Support Service for support in sustaining his licence in accordance with the terms of the licence;

(3) That, subject to his agreement, the applicant be referred to the Epping Forest Health and Social Care Team for learning disabilities as it is considered he should be reassessed following the death of his mother.

103. FUTURE MEETINGS

The Panel considered the commencement time of future meetings.

RESOLVED:

That all future meetings of the Panel commence at 2.30 p.m.

CHAIRMAN