



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL Thursday, 15th October, 2009

Place: Civic Offices, High Street, Epping

Room: Committee Room 2

Time: 2.30 pm

Democratic Services Officer Graham Lunnun - The Office of the Chief Executive
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Councillors Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), B Rolfe, Mrs J Sutcliffe and J Wyatt

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 18)

To agree the minutes of the meeting of the Panel held on 20 August 2009 (attached).

3. SUBSTITUTE MEMBERS

(Assistant to the Chief Executive) To report the attendance of any substitute members for the meeting.

4. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

5. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

<i>Agenda Item No</i>	<i>Subject</i>	<i>Exempt Information Paragraph Number</i>
6	<i>Appeal No. 8/2009</i>	1
7	<i>Application No. 9/2009</i>	1
8	<i>Progress Report on Previous Appeals/Applications</i>	1

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

6. APPEAL NO. 8/2009 (Pages 19 - 22)

To consider the attached restricted report.

7. APPLICATION NO. 9/2009 (Pages 23 - 56)

To consider the attached restricted report.

8. PROGRESS REPORT ON PREVIOUS APPEALS/APPLICATIONS (Pages 57 - 64)

To consider the attached restricted schedules.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 20 August 2009

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 5.15 pm

Members Present: Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), B Sandler, Mrs J Sutcliffe and J Wyatt

Other Councillors:

Apologies:

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

18. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 23 April, 18 June, 2 July and 23 July 2009 be taken as read and signed by the Chairman as a correct record.

19. SUBSTITUTE MEMBERS

It was noted that Councillor B Sandler was substituting for Councillor B Rolfe.

20. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs C Pond declared a personal interest in agenda item 6 (Appeal No 5/2009) by virtue of representing the ward in which the appellant's property was situated and being a member of the same group as the appellant's representative. The Councillor advised that she had no previous knowledge of the appeal and that she had determined her interest was not prejudicial and that she would remain in the meeting for the consideration and voting on the matter.

21. 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 paragraph 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 No
6	Appeal No 5/2009	1
7	Appeal No 7/2009	1

22. APPEAL NO. 5/2009

The Panel considered an appeal against a decision made by officers under delegated authority regarding the appellant's application for a vehicular crossover. The appellant attended the meeting to present her case accompanied by Councillor J Markham. Mr D Barrett, Area Housing Manager (South) 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 appeal. The Chairman introduced members of the Panel and officers present to the appellant.

The Chairman outlined the procedure to be followed in order to ensure that proper consideration was given to the appeal.

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

- (a) copies of documents submitted by the appellant, namely:
 - (i) application to the Housing Appeals and Review Panel dated 28 May 2009;
 - (ii) letter dated 3 March 2009 from a Housing Officer (Management) to the appellant;
 - (iii) undated letter from the appellant to the Head of Housing Services received by the Council on 24 February 2009;
 - (iv) letter dated 22 June 2007 from the Assistant Head of Housing Services (Operations) to the appellant;
 - (v) letter dated 14 June 2007 from the appellant to the Assistant Head of Housing Services;
 - (vi) letter dated 12 June 2007 from a Housing Management Officer to the appellant;
 - (vii) completed application form for crossover;
 - (viii) the appellant's parking card for people with disabilities;
- (b) the case of the Area Housing Manager (South);
- (c) a copy of a document submitted by the Area Housing Manager (South), namely a letter dated 22 June 2007 from the Assistant Head of Housing Services (Operations) to the appellant.

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

(a) the appellant's property was fronted by a sloping grass verge and by a fence at the top of the verge adjacent to the public footway; the fence served no useful purpose except to block access to the appellant's property which already had double gates and a hardstanding for a vehicle; it appeared that a vehicle had been kept within the curtilage at some time in the past prior to the fence being erected;

(b) when returning home with shopping it would be necessary for the appellant to park her vehicle in front of someone else's property, cross the road and walk to the end of the fence and then to her property several times; the situation was made worse by the presence of double yellow lines on the road in front of the appellant's property;

(c) further down the road where parking was permitted on the street, vehicles were parked on both sides leaving only sufficient width for one vehicle; if the appellant were able to park her vehicle within the curtilage of her property there would be one less car parked on the highway;

(d) the bend in the road in front of the appellant's property did not cause a safety issue as the point where a vehicular crossover would join the highway was clearly visible from both directions;

(e) other properties in close proximity already benefitted from gaps in the fence and had vehicular crossovers which had not caused a safety issue;

(f) the fence was not in a good condition; it was understood that residents tended to damage it when needing to get goods from the road into their properties;

(g) if necessary the appellant would be prepared to incorporate a gate into the fence in order to achieve vehicular access to her property;

(h) the fence would present an obstruction to the emergency services if they needed to get access to properties fronted by the fence.

The Area Housing Manager (South) advised that he did not wish to ask the appellant any questions.

The appellant answered the following questions of the Panel:

(a) Are there any children living in the properties fronted by the fence? I am not aware of any small children living in those properties;

(b) Your address for correspondence is different from the property for which you are seeking a vehicular access; can you clarify the position? I propose to sell my current property and to move into the property for which I am seeking a vehicular access;

(c) If a vehicular access is provided, would it be your intention to reverse into your property or to reverse out of it? I could do either and would use my judgement at the time; the provision of double yellow lines on the road has resulted in good sight lines in both directions;

(d) Is your property on a bus route? No;

(e) The fence appears to end near your property, has a section been taken down? Not that I am aware, the fence only ever extended to that point and not around the complete bend in the road;

(f) Have you applied for planning permission for a vehicular access? No, I decided to seek Housing approval first;

(g) Why did you not investigate the position before purchasing the property? I did not think there would be a problem as there is a property next but one which has a vehicular access;

(h) Have you consulted Essex County Council Highways about the proposed crossover? No, not yet.

(i) Have you considered applying for a disabled driver's bay on the highway? I would still need to walk from my car around the fence and this is likely to become more difficult as my arthritis gets worse.

Prior to presenting his case, the Area Housing Manager (South) sought approval to tabling copies of two photographs and two site plans showing the appellant's property and the immediate locality. The Chairman agreed to this request and copies were handed to the appellant and members of the Panel.

The Panel considered the following submissions of the Area Housing Manager (South):

(a) the appellant's property was a three bedroom semi-detached former Council-owned house sold under the Right to Buy in November 1995;

(b) parallel to the front of the property there was an Epping Forest District Council housing owned public footway which sat behind a steeply banked grassed verge adopted by Essex County Council Highways which bordered the public highway; the footway had a section of fencing which ran along its length and had probably been installed as a safety measure to protect pedestrians from the gradient to the verge which dropped down onto the highway;

(c) on 6 June 2007 an application had been received from the appellant for permission to create off-road car parking within her property; this needed to be accessed with the provision of a vehicular crossover from the public highway;

(d) two separate permissions were required from the District Council in relation to the provision of a vehicular crossover in this location; as the appellant's property is a former Council-owned house, there was a covenant which required consent for the construction of off-street parking within the curtilage of the property; in addition, consent was required to cross the footway and to remove a section of the fence;

(e) on 12 June 2007 the appellant's application had been refused by the Area Housing Office on two safety grounds; firstly, it was considered that the removal of a section of the fence to allow the access might compromise the safety of pedestrians; secondly, it was considered that sight lines would be restricted for any vehicle accessing or exiting the property in view of its location on a bend in the road; it was also considered that in order to exit the property, it might be necessary to reverse a vehicle onto the highway;

(f) on 14 June 2007 the appellant made an appeal against that decision and on 22 June 2007 the Assistant Head of Housing Services (Operations) refused the appeal on the same grounds given by the Area Housing Office.

The Area Housing Manager (South) answered the following questions of the appellant, Councillor Markham and the Panel:

(a) Why does the fence not continue further along the road? I do not know why the fence is only on this particular section of the road; however, further along the road, the gradient of the slope is less and it was probably considered that at that level, there was no safety hazard;

(b) Why did officers not advise the appellant of the need for other consents? At the time of applying for off-street garden parking, the appellant would have received a leaflet which draws attention for the need to obtain consent from Essex County Council Highways; the application form itself also draws attention to this need;

(c) What is the difference in height between the road surface and the footway in front of the appellant's property? I have not measured it but I would estimate between three and four feet;

(d) Do you consider that the removal of a section of fence for the appellant would set a precedent? Yes;

(e) There are many similar vehicular crossovers in similar locations, without fencing at the top of a sloping verge; why was this fence erected? I can only assume that it was erected for safety purposes;

(f) Do you share the concerns expressed about the fence obstructing access to properties by the emergency services? The fence is only chain link and the emergency services would be able to cut through it in seconds;

(g) Would you have any objection to a section of the fence being removed and replaced by the appellant with a gate? This has not been suggested previously and is something I will leave to the Panel;

(h) If there is an issue with sight lines, could not this be overcome by placing a mirror in an appropriate location? If Essex County Council Highways consider that necessary, they will require it if they approve the proposal;

(i) Are most of the houses in this vicinity now in private ownership? Yes;

(j) Was the fence removed in order to achieve vehicular crossovers for those properties a little further along the road? No I do not believe that the fence extended as far as those properties.

The Chairman asked the appellant if she wished to raise any further issues in support of her case. The appellant stated that all of her neighbours in the road would be happy if the fence were removed as they did not believe it served any useful purpose.

The Chairman asked the Area Housing Manager (South) if he wished to raise any further issues in support of his case. The Area Housing Manager (South) stated that the officers had refused the application as they had been concerned about safety issues and had been reluctant to make a decision which might compromise safety.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the appellant and the Area Housing Manager (South) would be advised in writing of the outcome. The appellant, Councillor Markham and the Area Housing Manager (South) then left the meeting.

The Panel considered all of the evidence and the submissions which had been made by and on behalf of the appellant and by the Area Housing Manager (South).

In coming to its decision, the Panel focused on the purpose and appearance of the fence which fronted the property, the safety implications of creating a vehicular crossover on a bend in the road and the need for other consents. The Panel were of the view that the fence in front of the property served little purpose. However, they acknowledged that the Highways Authority and/or residents might consider that the existence of a fence in this location had merit.

RESOLVED:

(1) That, having taken into consideration the information presented by and on behalf of the appellant and by the Area Housing Manager (South) in writing and orally, the Area Housing Manager (South) undertake written consultation with Essex County Council Highways and all of the occupiers of properties fronted by the fence in the road in which the appellant's property is situated asking them if they would be in favour of the District Council removing the whole fence and advising them that if they do not respond within the time specified, they will be considered as being in favour of the whole fence being removed;

(2) That if Essex County Council Highways or a simple majority of the occupiers consulted object to the removal of the fence, it remain in place and the appeal be dismissed as vehicular access to the appellant's property cannot be achieved without removing a section of the fence; removal of a section of the fence and its replacement with gates is considered impractical;

(3) That if Essex County Council Highways and a simple majority of the occupiers have no objection to the removal of the fence:

(a) the Area Housing Manager (South) arrange for its removal and the making good of the areas where the posts are removed with the District Council meeting the cost;

(b) the appeal be allowed and permission granted to drive a private vehicle over the District Council's footway and to park such a vehicle within the curtilage of the appellant's property as it is considered the existence of a fence in this location serves little purpose and a vehicular crossover at this location is not considered unsafe bearing in mind the existence of other vehicular crossovers on the bend in the road which do not cause a safety hazard;

(4) That if the outcome of the consultation exercise is (3) above, the permission for a vehicular access be subject to:

(a) the standard conditions relating to vehicular crossovers over District Council housing land;

(b) the appellant and future occupiers of the appellant's property, being responsible for the maintenance of the crossover; and

(c) the appellant also obtaining permission for the vehicular crossover from Essex County Council Highways and, if required, planning permission from the District Council before any works on construction of the crossover are commenced and to comply with any conditions to which those permissions are granted.

23. APPEAL NO. 7/2009

The Panel considered an appeal against a decision made by officers under delegated authority regarding the appellant's rent arrears. The appellant attended the meeting accompanied by Parish Councillor P Collins and advised that Councillor Collins would present her case. Mrs R Smith, Area Housing Manager (North) attended the meeting to present her 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 appeal. The Chairman introduced members of the Panel and officers present to the appellant.

The Chairman outlined the procedure to be followed in order to ensure that proper consideration was given to the appeal.

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

- (a) copies of documents submitted by the appellant, namely:
- (i) the application to the Housing Appeals and Review Panel dated 4 June 2009;
 - (ii) letter dated 15 August 2009 from the appellant to the Housing Appeals and Review Panel;
 - (iii) notification of Council Tax and Housing Benefit Award from 6 April 2009 including an officer's written note thereon;
 - (iv) the appellant's rent payment details for the years 2005/06, 2006/07, 2007/08, 2008/09 and 2009/10;
 - (v) letter dated August 2009 from the Director of Housing to the appellant;
 - (vi) letter dated 9 May 2009 from the appellant to the Assistant Director of Housing (Operations);
 - (vii) letter dated 15 August 2009 from Councillor P Collins to the Housing Appeals and Review Panel;
- (b) the case of the Area Housing Manager (North);
- (c) copies of documents submitted by the Area Housing Manager (North), namely:
- (i) letter dated 30 March 2009 from the appellant to the Council;
 - (ii) letter dated 9 May 2009 from the appellant to the Assistant District of Housing (Operations);

- (iii) letter dated 14 May 2009 from the Assistant Director of Housing (Operations) to the appellant;
- (iv) letter dated 7 April 2009 from the then Area Housing Manager (North) to the appellant;
- (v) letter dated February 2008 from the Director of Housing to the appellant;
- (vi) letter dated 19 March 2008 from the Council's Benefits Manager to the appellant;
- (vii) the appellant's transaction history from September 1999 to July 2009;
- (viii) schedule of the appellant's recovery event history dated 21 July 2009.

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

- (a) the appellant was expected to calculate from the rent increase letter and the Housing Benefit notification in order to work out the amount of net rent payable each year; this was not straightforward and it would make more sense for the Housing and Finance Directorates to communicate with each other regarding rent and benefits and then notify the tenant of the net amount to be paid; data protection would not apply in these circumstances;
- (b) the current system was dependent on tenants being able to understand complicated figures and confusing text;
- (c) the Council should produce an end of year balance sheet clearly stating what was owed, what had been paid and a balance; the Council's transaction history schedules might be self-explanatory to the trained operative in Accounts but were extremely difficult for the untrained to understand;
- (d) the appellant had been an excellent tenant paying her rent regularly, fortnightly in advance and her rent payment cards showed that in the main payments were made four days in advance;
- (e) in order to achieve this high standard of commitment, the appellant had for the last 15 years visited the Housing Directorate in March of each year for clarification of the following year's rent; not all of these visits had been met with the response one would have expected from a Directorate claiming to assist its tenants;
- (f) in March 2009 the appellant had visited the Civic Offices with her daughter to clarify her rent payment for 2009/10; at that visit the appellant had been advised for the first time that her account was in arrears;
- (g) the appellant had returned to the Civic Offices the following day in March 2009 and had been advised by the then Area Housing Manager (North) that she had not paid the heating and water charges in 2008/09 and that was the reason for her arrears; he had then written on her letter the amount to be paid in 2009/10;
- (h) the new fortnightly figure of £25.56 had been paid since 9 April 2009;
- (i) in October 2002 the Council had advised the appellant that she had been paying too much rent and she had received a refund of £195.88; in view of this and

the wrong amount quoted for 2008/09 the appellant now questioned whether other figures provided by the officers had been accurate; the appellant had recently been notified that the rent for 2009/10 would be decreased; she was still awaiting a letter from Housing Benefit in order to be in a position to calculate the new figure to be paid and she was worried she would experience further problems;

- (j) the appellant's health had deteriorated recently with worry about the arrears;
- (k) the appellant simply requested assistance with the calculation each year, preferably in writing, in order to give her peace of mind knowing that her fortnightly payments were correct;
- (l) the Council should admit that not all of their systems were perfect and in the light of the stress and ill health suffered by the appellant, it should agree to write off the appellant's arrears.

The appellant answered the following questions of the Area Housing Manager (North) and the Panel:-

- (a) Do you receive a formal increase of rent letter in February each year? Yes;
- (b) Do you receive a letter each year from the Council's Housing Benefit Section advising you of benefit awarded? Yes;
- (c) Has it been your practice to attend the Civic Offices each year in order to obtain assistance in calculating the rent payable? Yes;
- (d) Which do you consider carries most weight; the letters advising you of the rent increase and the amount of Housing Benefit or the advice you receive from officers? I accept it is the tenant's responsibility to calculate the amount payable and that calculations made by officers do not form part of the rent setting exercise; however I would expect to receive the correct advice from officers;
- (e) Did you receive a letter from the Council regarding your arrears in 2008/09? Yes I received a letter on 14 May 2009 following my letter to the Council dated 9 May 2009; that was during the current financial year and not during the year in which the arrears accrued.

The Panel considered the following submissions in support of the case of the Area Housing Manager (North):

- (a) the appellant's secure tenancy of her property commenced on 6 September 1999; the property was a one bedroom ground floor flat in sheltered accommodation; the appellant had been a tenant of the Council since 1960;
- (b) the appellant had claimed that Council officers had misadvised her of the correct rent figure payable for the period April 2008 – March 2009, after making allowances for Housing Benefit adjustments; as a consequence arrears had accrued on the rent account amounting to £83.72; the appellant felt that these arrears should be written off;
- (c) in February each year all tenants received a notice of rent variation (increase) in accordance with the legislation; separately, those in receipt of Housing Benefit received a letter advising them of their entitlement; when receiving partial benefit (as with any landlord), it was the tenant's responsibility to deduct the amount of benefit from the full rent due and pay the balance;

(d) occasionally tenants contacted their Housing Management officer by telephone or in person to seek assistance in making the necessary calculation; in these circumstances the Housing Management officer would undertake an informal calculation and give guidance on how much should be paid; it should be noted that it was ultimately the tenant's responsibility to make the calculation and pay the correct net amount;

(e) the appellant had further claimed that various complaints had been made to the Council over the last 15 years which had not been acted upon; the appellant's daughter had stated that over the last 15 years she had visited the Civic Offices together with the appellant at the commencement of each financial year in order to verify the new rental figure; the appellant's daughter had claimed that the appellant had been given incorrect advice each successive year; there was no record of any formal complaints being received from the appellant in connection with this allegation; the problem concerning the incorrect amount of rent being paid had only occurred for the period April 2008 – March 2009 and not in any of the other 15 years as suggested;

(f) the appellant had stated that she had visited the Civic Offices in March 2008 in order to speak with a Housing officer for the purpose of establishing how much rent she had to pay for the financial year commencing 2008/09; the appellant had stated that she had been seen by a Housing Management officer who had told her an incorrect rent figure to pay; Housing Directorate records showed that the appellant had visited the Civic Offices on 1 April 2008 but there was no record of any conversation about the amount of rent to be paid; in a letter dated 14 May 2009 the Assistant Director of Housing (Operations) had apologised if a mistake had been made by the officer in calculating the appellant's rent for 2008/09; however as the letter had further advised any calculations made by officers were purely to assist tenants and did not form part of the rent setting exercise; it should be borne in mind that it was ultimately the responsibility of the tenant to deduct any amounts of benefit from the amount of rent owed to the landlord and pay the correct amount; the letter dated 7 April 2009 from the then Area Housing Manager (North) to the appellant had explained how the arrears had accrued;

(g) the appellant's rent increase letter dated February 2008 had been hand delivered and the Housing Benefit notification would have been sent to the appellant by the Finance Directorate shortly after that time;

(h) a review of the appellant's rent account showed that the appellant had made accurate payments in line with successive rent increases with appropriate allowances being made for Housing Benefit deductions; this had been the case for the whole period of the tenancy with the exception of the financial year commencing 2008/09;

(i) the Council's system had recorded conversations which had taken place between the appellant and the Housing Management office on 30 March 2004, 5 April 2005, 6 April 2006 and 17 March 2009; on each of those occasions the amount quoted by the Housing officer had been correct at the start of each of the financial years; however, Housing Benefit could change at any time which was dependent upon an applicant's personal circumstances and should there be any change it would again be the responsibility of the tenant to calculate the new amount of rent payable;

(j) it was not considered that the appellant had been repeatedly misadvised of the rent due and regard should be had to the fact that it was the ultimate responsibility of the tenant to make the correct calculation;

(k) the Panel were asked to dismiss the appeal and to require the appellant to clear the outstanding amount on her rent account.

The Area Housing Manager (North) answered the following questions of the appellant, Councillor Collins and the Panel:-

(a) If there is no record of the meeting with the appellant in March 2008, is that not an error on the part of the officer? Officers try to record conversations but it is impractical to record every one;

(b) Is there a record of conversations in previous years? Yes, in some of those years;

(c) How is it that you record conversations in some years but not others? As I have already said officers try to record conversations but it is impractical to record every one;

(d) Does the Council's system draw attention to arrears? The system does draw attention to arrears when they reach a particular level; that level had not been reached in respect of the appellant's account and it was for that reason she had not been notified earlier of the arrears; the appellant would have received an end of year balance letter which would have shown the arrears;

(e) Is it difficult for officers to make the calculation and advise tenants of the net rent to be paid? The difficulty arises because the rent notification (increase) letter is sent out in February each year, some two months before the commencement of the financial year; at that time Housing officers are not aware of the amount of Housing Benefit to be awarded and changes can take place in the amount of Housing Benefit at any time due to changes in a person's circumstances; for that reason any calculation made by an officer has to be regarded as informal;

(f) Why did it take a year to notify the appellant of her arrears? I believe I have covered this in an earlier response;

(g) I understand that a tenant who is over eight weeks in arrears does not receive Housing Benefit direct and that it is sent to the landlord in those circumstances – is this correct? That can apply with private tenants but in this case Housing Benefit comes directly to the Council because the appellant is in Council sheltered accommodation;

(h) Is there not a better method of advising tenants of the rent payable; for instance can not the two letters be combined? I am not sure if this is possible with the Council's computer system and it has to be borne in mind that Housing Benefit can change at any time; a figure calculated in February may not be relevant in April; it also has to be borne in mind that the housing rent level has to be notified in a prescribed form and similarly Housing Benefit has to be notified in a prescribed form – to combine both letters would make for a very complicated notification;

(i) Is there no mechanism to check the status of a tenant's account before the end of the financial year, say every three months? Yes, the system draws attention to arrears but as I have said previously this case was below the threshold;

(j) Should you not alert tenants as soon as they are in arrear whatever the level? We manage approximately 6,000 properties and do not have the resources to do as you suggest;

(k) Cannot the computer system simply generate letters of this type? I am not sure. I would need to discuss that with other officers;

(l) What arrangement are you prepared to accept for the payment of the arrears? – We are prepared to discuss any arrangement with the tenant;

(m) Following a meeting in May of this year, have you instructed a Housing Management officer to ensure that the appellant's net rent is worked out correctly each year? Yes, because of the difficulties the appellant has faced I have asked an officer to make sure that she is notified of the correct amount to be paid.

The Chairman asked the appellant if she wished to raise any further issues in support of her appeal. On behalf of the appellant, Councillor Collins stated that the Council's system needed to be overhauled as the current process of notification was unsatisfactory. He submitted that the process caused undue stress and worry for tenants and expressed the hope that this appeal would lead to some positive action being taken to improve the situation. He re-emphasised that the appellant had never been in arrears before 2008/09.

The Chairman asked the Area Housing Manager (North) if she wished to raise any further issues in support of her case. The Area Housing Manager (North) re-emphasised that whilst Housing Management officers could undertake an informal calculation and give guidance on how much should be paid, it was the tenant's responsibility to make the calculation and pay the correct amount.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the appellant and the Area Housing Manager (North) would be advised in writing of the outcome. The appellant, Councillor Collins and the Area Housing Manager (North) then left the meeting.

In coming to its decision the Panel focused on the circumstances resulting in the accrual of arrears, the appellant's rent payment record, the notification process each year of the rent increase and Housing Benefit and the appellant's practice of visiting the Civic Offices to seek advice on the net amount she needed to pay each fortnight .

RESOLVED:

(1) That, having taken into consideration the information presented by and on behalf of the appellant and by the Area Housing Manager (North) in writing and orally, the decision of officers regarding the appellant's rent arrears be not upheld, and accordingly, as a gesture of goodwill, an ex gratia sum of £83.72 be applied to the appellant's rent account to offset the arrears accruing on her account in the financial year 2008/09 for the following reasons:

(a) It is acknowledged that it is the tenant's responsibility to calculate the amount of rent payable from the rent increase letter and the Housing Benefit notification and that arrears of £83.72 have accrued to the appellant's rent account due to her paying incorrect net rent for the period April 2008 – March 2009; however account has been taken of:

(i) there is evidence in the Council's system that the appellant had visited the Civic Offices at the commencement of several financial years in order to verify with Housing officers the new rental figure payable each year; although there is no record of such a visit at the

commencement of the year 2008/09 it is considered, on balance, that such a visit did take place in view of the evidence of past visits and the admission by the Area Housing Manager that such visits are not always recorded by officers; accepting that a visit did take place it is concluded that the appellant paid the amount advised by an officer which was the incorrect amount;

(ii) accepting the comparatively small amount of arrears from a Housing Management viewpoint it is still considered, having regard to the appellant's level of rent and her previous payment record, that officers should have taken action over the accruing debt earlier in the financial year 2008/09;

(iii) the distress and worry caused to the tenant on receiving a rent arrears letter at the end of the financial year, when she believed she had been paying the correct amount of net rent;

(2) That the Area Housing Manager (North) notify members of the Panel why the Council's computer system cannot generate a third letter to tenants at the commencement of each financial year advising of the actual rent payable after taking account of Housing Benefit;

(3) That the Director of Housing instructs officers of the need to always make an entry in the Council's computer system when advising tenants of the amount of net rent to be paid.

24. DATE OF NEXT MEETING

The Panel were advised that their meeting scheduled for September 2009 had been cancelled and that the October 2009 meeting was scheduled to be held on 22 October 2009. They were invited to alter the date of the October meeting as one of the parties to the one case currently to be considered at that meeting was not available on 22 October 2009.

RESOLVED:

That the next meeting of the Panel be held on 15 October 2009 commencing at 2.30 pm.

25. TERMS OF REFERENCE

The Director of Housing advised the Panel that their Terms of Reference were to hear appeals against and reviews of decisions taken by officers acting under delegated authority, on housing matters. He informed members that as a result all decisions taken by Housing officers were subject to consideration by the Panel.

Members discussed whether, having regard to Council policy, there was any benefit in some decisions taken by officers being exempt from appeal to or review of by the Panel.

RESOLVED:

That the Director of Housing submit a report to the next meeting of the Panel listing all the decisions taken by Housing officers to enable further consideration to be given to this matter.

CHAIRMAN

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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