

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Wednesday, 26 October 2011

Place: Committee Room 2, Civic Offices, High Street, Epping **Time:** 2.30 - 5.20 pm

Members Present: Councillors B Rolfe (Chairman), Mrs J Sutcliffe (Vice-Chairman), Mrs T Cochrane, Mrs R Gadsby and Mrs J Lea

Other Councillors:

Apologies: Councillors Ms J Hart and Ms Y Knight

Officers Present: A Hall (Director of Housing), G Lunnun (Assistant Director (Democratic Services)) and R Wallace (Housing Options Manager)

35. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 8 and 26 September 2011 be taken as read and signed by the Chairman as a correct record.

36. SUBSTITUTE MEMBERS

It was noted that Councillor Mrs J Lea was substituting for Councillor Ms Y Knight and that Councillor Mrs T Cochrane was substituting for Councillor Ms J Hart.

37. DECLARATIONS OF INTEREST

There were no declarations of interest by members of the Panel under this item.

38. 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 Number	Subject	Exempt Information and Paragraph Number
6	Appeal No 9/2011	1

39. APPEAL NO. 9/2011**Introduction**

The Panel considered an appeal against a decision made by officers acting under delegated authority concerning a Housing Register banding review. One of the appellants attended the meeting to present her case accompanied by her father-in-law. Mr R Wallace, 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 relevant legislation and national and local housing policies relative to the appeal.

The Chairman introduced the members of the Panel and officers 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 appellants, namely:
 - (i) their application to the Housing Appeals and Review Panel dated 11 September 2011;
 - (ii) copy of letter dated 17 May 2010 from the Housing Options Officer (Allocations) to one of the appellants;
 - (iii) schedule showing a selection of Council properties let to applicants in Bands 1 and 3;
 - (iv) schedule of details of expressions of interest made by the appellants;
 - (v) copy of letter dated 16 September 2011 from one of the appellants to the Housing Options Manager;
 - (vi) copies of e-mails exchanged between Council officers and the appellants;
 - (vii) schedule of Council two bedroom properties let since 6 April 2009;
- (b) a summary of the case including the facts of the case;
- (c) the case of the Housing Options Manager;
- (d) copies of documents submitted by the Housing Options Manager; namely:
 - (i) letter dated 6 April 2009 from the Assistant Housing Options Officer to the appellants;
 - (ii) copy of letter dated 17 May 2010 from the Housing Options Officer (Allocations) to one of the appellants;
 - (iii) copy of letter dated 9 November 2010 from the Housing Options Manager to one of the appellants;

- (iv) copy of letter dated 10 December 2010 from the Assistant Director Housing (Operations) to one of the appellants;
- (v) copy of letter dated 24 January 2011 from the Assistant Director Housing (Operations) to one of the appellants;
- (vi) extracts from the Council's Housing Allocations Scheme showing the bandings and the sizes of properties to be allocated.

Presentation of the Appellants' Case

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

- (a) the Allocations Scheme was unfair as one of the appellants had been awarded medical preference two years ago but the appellants were still in the same Band;
- (b) the banding system was impossible to work with and feedback was not correctly displayed to the public so that there was no way of knowing where a property had been allocated;
- (c) three people living in a one bedroom flat was unacceptable;
- (d) letters from the appellants' General Practitioner and one from a consultant were not before the Panel; the latter had not been on the appellants' file when they had inspected it;
- (e) they did not want to live in a maisonette or a flat, which was a matter of their choice;
- (f) applicants in Band 1 accommodated in the Council's Homeless Hostel had better accommodation than the appellants; the appellants had set up their bed in the living room leaving the bedroom for their child; the property had no garden and was situated in a poor locality;
- (g) if the appellants' questions had been answered by officers in the past it would not have been necessary to appeal to the Panel;
- (h) if it was not within the Terms of Reference of the Panel to change the Allocations Scheme, who was responsible? (with the approval of the Chairman, the Director of Housing advised that the Council's Housing Allocations Scheme was reviewed on a regular basis; as part of the review process consultation was carried out with all applicants on the Housing Register via Housing News; when the next review was undertaken all applicants on the Housing Register would be encouraged to put forward their comments);
- (i) why had the officers stated that it would cost £300 to provide some of the information requested by the appellants when they had subsequently been able to produce it at no charge at very short notice;
- (j) Council officers had been invited to view the appellants' flat so that they could appreciate the appellants' living conditions but the offer had not been taken up;
- (k) it was apparent that a lot of people in Band 1 were making successful bids for houses but there was little chance for applicants in Band 3 of getting a house;

(l) Council staff had been unhelpful and patronising; on one occasion when the appellants had complained of damp in the bathroom they had been advised to bathe their son in the kitchen sink;

(m) the Council's Allocations Scheme stated that a household comprising of homeseekers with one child should be housed in a two bedroom property; this confirmed the need for the appellants to have a larger property.

Questions from the Housing Options Manager to the Appellant Present at the Meeting

The appellant gave the following answer to a question from the Housing Options Manager:

(a) looking at the list of Council two bedroom properties let since 6 April 2009 it was accepted that had expressions of interest been made in relation to flats and maisonettes it was quite possible that they would have been re-housed by now but they had not bid for a flat or maisonette; they wished to move to a house.

Questions from Members of the Panel to the Appellant

The appellant gave the following answers to questions from members of the Panel:

(a) the Council operated a Choice-Based Lettings Scheme and therefore applicants should be allowed to bid only for a house if they wished; since living in a flat, neighbour issues had been experienced by the appellants; the last two years would be wasted if it was accepted that only a flat or maisonette would become available to the appellants;

(b) one of the appellants and their son suffered with skin problems and the appellants' son also suffered from asthma; the skin problems were caused by stress due to their current living conditions.

Presentation of the Case of the Housing Options Manager

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

(a) officers had been in regular contact with the appellants regarding their housing application; officers in Housing Options and Housing Repairs had dealt with complaints made by the appellants; attempts had been made to explain to the appellants about the different routes to be taken to pursue an appeal against their banding and complaints about officers but they still appeared to be under the impression that the Panel could consider their complaints; the matter before the Panel was an appeal against the officers' decision on the appellants' Housing Register banding level and the evidence to be presented would relate to how the housing application had been made, how it had been processed and how a decision had been reached about the banding;

(b) one of the appellants had submitted a subsequent housing application to the Council on 6 April 2009; the address given on the housing application had been the appellants' current property; the property had been occupied initially as an introductory Council tenancy since August 2008; the size of the property was a one bedroom ground floor flat;

(c) as part of the housing application one of the appellants stated that he wished to include his partner who he had subsequently married and was now the second appellant;

(d) the appellants had been advised on 6 April 2009 that they had no housing need at that time and they were accordingly placed in Band 6 of the Council's Housing Allocations Scheme;

(e) on 16 February 2010, the Council had received notification from the appellants that they wished to include their recently born son in their housing application; following this change in circumstances, the housing application had been updated and promoted to Band 3; this new banding took place as the family lacked a bedroom and had no access to a garden;

(f) whilst the housing application had been active there had been a number of self assessment medical forms submitted on behalf of family members; these included assessments on behalf of the appellants' son who had been diagnosed with eczema; one of the appellants had also experienced eczema as well as dermatitis; following consideration of these assessments by the Council's Medical Adviser the appellants had been advised that there would be no change in their banding level;

(g) the appellants had sought to challenge the Council's Medical Adviser's recommendations and they had been advised that they were not able to challenge such findings;

(h) the matter had been reviewed by the Assistant Director Housing (Operations) who had concluded that the appellants did not meet the criteria for being placed in Band 1 or Criterion Band 2(a) of the Housing Allocations Scheme; in relation to the latter issue he had pointed out that as the appellants were adequately housed in their current accommodation and were within the Permitted Number of persons set out in the Housing Act 1985 he did not consider that they were living apart due to lack of accommodation;

(i) on 9 August 2011 the Council had received a further supporting letter from the appellants' medical practitioners; this letter had confirmed the apparent asthma conditions for all household members; on 7 September 2011 a further assessment had been undertaken by the Council's Medical Adviser who had not granted any additional medical preference;

(j) it was critical that full consideration was given to the housing conditions prevailing in the District and the demands placed on the Council; currently the Council had a housing stock in the region of 6,500 properties and 5,730 applicants on the Housing Register;

(k) the Council had a structured Housing Allocations Scheme in place that met the full requirements of the Housing Act 1996 Part VI;

(l) the Council's Medical Adviser had the benefit of seeing all cases where a medical assessment was required and was in the best position therefore to be able to compare cases and make decisions on which cases constituted strong and which ones constituted moderate medical needs;

(m) there were currently 199 applicants in Band 3 with moderate medical conditions similar to those of the appellants and only 34 households in Band 1 by virtue of their strong medical conditions; examples of households meeting Criterion

Band 1(b) (needing to move on strong medical or welfare grounds) were those where an applicant was wheelchair bound or had suffered long term hospitalisation;

(n) it had been the appellants' choice to make expressions of interest on houses only; in view of the number of applicants on the Housing Register it was likely that they would continue to be disappointed if they only submitted such bids;

(o) the appellants' bidding history was before the Panel as were details of all two bedroom properties which had been let since 6 April 2009 (the date when the applicants had started making expressions of interest);

(p) the appellants had referred to a consultant's letter not being before the Panel; if the appellants had wished to place this letter before the Panel they could have submitted it; the Council had to respect data protection issues and could not produce that letter without the consent of the appellants;

(q) although the appellants had been advised to consider submitting expressions of interest against advertised flats and maisonettes as well as houses, they had only submitted one bid against an advertised flat since 28 September 2009;

(r) the housing application had been assessed correctly and accordingly should remain in Band 3.

Questions from the Appellants on the Case of the Housing Options Manager

The Housing Options Manager gave the following answers to questions from the appellants:

(a) the criteria for being placed in Band 1 of the Allocations Scheme was set out in the documents before the Panel; there were currently 128 households in Band 1 of which 34 met Criterion 1(b) (homeseekers needing to move on strong medical or welfare grounds); Criterion 1(d) (homeseekers living in the District for more than a year immediately prior to application residing in insanitary, overcrowded or unsatisfactory conditions) did not apply to the appellants because overcrowding was determined by reference to the provisions of the Housing Act 1985; the reference in the Housing Allocations Scheme to the sizes of properties to be allocated explained how the Council would allocate properties but was not a statutory definition of overcrowding;

(b) the schedule of properties against which the appellants had submitted bids of interest had been sent to the appellants so that they could include it in the documents they wished to place before the Panel;

(c) the appellants had been quoted a sum of £300 to provide more detailed information following consultation with the Council's external IT service provider; however, following representations being made by the appellants the Housing Options Team had devoted significant time to provide the information to the appellants at no cost;

(d) all the relevant information regarding lettings was available to applicants in relation to properties for which they had made a bid; more limited information was available to applicants in relation to properties in respect of which they had not submitted a bid.

Further Statement by the Appellants

The appellants acknowledged that they did not meet the criteria for being placed in Band 1 and had not appreciated the the role of the Housing Appeals and Review Panel.

In the light of this comment, the Chairman advised that he felt there would be little gained by continuing with the agreed procedure, which was agreed by the appellants; however, the Chairman explained that the Panel would still need to make a decision on whether the appellants were in the correct band. He invited the parties to make closing statements.

Closing Statement by the Appellant Present at the Meeting

The appellant stated that she had nothing to add.

Closing Statement by the Housing Options Manager

The Housing Options Manager stated that in his view the appellants had been correctly placed in Band 3 of the Council's Housing Allocations Scheme. He suggested that when the appellants received the Panel's decision they could then decide whether to pursue separately the various complaints which they had made about officers.

Deliberations

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

In coming to its decision, the Panel focussed on the assessment of one of the appellants and the appellants' son's medical conditions by the Council's Medical Adviser, the adequacy of the appellants' existing accommodation, the appellants' housing circumstances and needs, and the officers' application of the Council's Housing Allocations Scheme.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Council's adopted Housing Allocations Scheme and having taken into consideration the information presented by and on behalf of the appellants and by the Housing Options Manager in writing and orally, the decision of the officers not to promote the appellants from Band 3 to Band 2 or Band 1 of the Allocations Scheme be upheld for the following reasons:

(a) the appellants are currently in Band 3 of the Council's Housing Allocations Scheme by virtue of meeting the criteria of Band 4(a) or (b), and one other criterion in Band 4, namely:

"4(a) Homeseekers living in the District for more than a year immediately prior to application, needing one or more additional bedrooms;

4(b) Homeseekers living in the District for more than a year immediately prior to the application, needing to move on moderate medical or welfare grounds or for reasons of disability, or needing to move to a particular locality in the District where failure to do so will result in them or others suffering hardship; and

4(f) Households including a child under the age of 11 living in the District for more than a year immediately prior to application who have no access to a garden;

(b) to be promoted to a higher band due to medical reasons could only be to Band 1 under the Allocations Scheme; to be eligible for Band 1 the appellants need to meet one of the criteria in that Band; the appellants consider that they meet Criterion 1(b) of Band 1 (Homeseekers living in the District for more than a year immediately prior to application, needing to move on strong medical or welfare grounds or for reasons of disability);

(c) we have taken account of the fact that the appellants have submitted a number of medical self assessment forms for members of the household; one of the appellants suffers from eczema and dermatitis and their son suffers from eczema; in accordance with the Council's Allocations Scheme, medical priorities are assessed by the Council's Medical Adviser taking account of all known facts relating to the application; the Council's Medical Adviser also has the benefit of seeing all cases where a medical assessment is required and is in the best position therefore to be able to compare cases and decisions on which cases constitute strong and which ones constitute moderate medical needs; we note that all the medical evidence submitted by and on behalf of the appellants has been assessed by the Council's Medical Adviser and that she has determined the need for the appellants to move is based on moderate_medical grounds as required under Band 4 (Criterion (b)) but not strong medical grounds as required under Band 1 (Criterion (b)); we see no reason to disagree with this view, we are therefore of the opinion that the appellants do not have a need to move on strong medical grounds;

(d) having regard to (c) above we do not consider that the appellants satisfy the requirements of Criterion (b) of Band 1; the evidence submitted does not indicate that the appellants meet any of the other criteria in that Band;

(e) to be promoted to Band 2 of the Allocations Scheme it is necessary for the appellants to meet one of the two criteria in that Band; they consider that they meet Criterion 2(a) of Band 2 (Homeseekers having to live apart from other members of their household because of lack of accommodation, but not for personal reasons where the applicant or their partner have lived in the District for more than a year immediately prior to application); the appellants did not submit any evidence to the Panel in support of this claim but the Panel notes that in November 2010 the appellants submitted information about a change of circumstances that one of them was staying with parents whilst working night shifts due to the lack of accommodation in their property; we are satisfied that the appellants do not have to live apart since, although not ideal, their current accommodation has sufficient space having regard to the permitted

number of persons above which constitutes statutory overcrowding, as specified in the Housing Act 1985; accordingly we do not consider that these circumstances satisfy the requirements for meeting Criterion 2(a) of Band 2; the evidence submitted does not indicate that the appellants meet the requirements of the other Criterion in Band 2;

(f) in all the circumstances, therefore, we are satisfied the officers' decision to assess the appellants for Band 3 is correct;

(2) That in relation to the appellants' criticism of the Council's Housing Allocations Scheme, they be advised that it is not within the Terms of Reference of the Panel to change the criteria for the Bands of the Allocations Scheme; the role of the Panel is restricted to determining whether appellants have been correctly placed in a Band by officers having regard to the facts; changes to the Allocations Scheme are made regularly by the Council's Cabinet after extensive consultation (including all housing applicants); accordingly, if the appellants wish to pursue their criticisms of and seek changes to the Allocations Scheme they should respond when the next consultation exercise is undertaken or, alternatively, make their views known to their ward councillor(s) in advance of the Council reviewing the Allocations Scheme;

(3) That the appellants' criticism of the way in which Housing officers responded to their requests is not substantiated by the evidence before the Panel.

40. APPEAL NO. 10/2011

Introduction

The Panel considered an appeal against a decision made by officers acting under delegated authority concerning a Housing Register banding review. The appellant attended the meeting to present her case accompanied by one of her local ward councillors, Councillor Jennie Hart. Mr R Wallace, 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 relevant legislation and national and local housing policies relative to the appeal.

The Chairman introduced the members of the Panel and officers 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) her application to the Housing Appeals and Revenue Panel dated 1 September 2011;
 - (ii) copy of letter dated 17 February 2011 from the appellant's General Practitioner to the Housing Department;
 - (iii) a copy of a prescription for the appellant dated 13 September 2011;

- (b) a summary of the case including the facts of the case;
- (c) the case of the Housing Options Manager;
- (d) copies of documents submitted by the Housing Options Manager, namely:
 - (i) copy of letter dated 21 January 2010 from the Assistant Housing Options officer to the appellant;
 - (ii) copy of letter dated 21 April 2010 from the Assistant Housing Options officer to the appellant;
 - (iii) copy of letter dated 23 June 2011 from the Housing Options Manager to the Epping Citizens Advice Bureau;
 - (iv) copy of letter dated 27 July 2011 from the Assistant Director of Housing (Operations) to the appellant;
 - (v) extracts from the Council's Housing Allocations Scheme showing the bandings and the sizes of properties to be allocated;
 - (vi) medical assessment by the Council's Medical Adviser dated 19 October 2011.

Presentation of the Appellant's Case

The Panel considered the following submissions made by Councillor Hart in support of the appellant's case:

- (a) the appellant had resided at her current privately rented property since September 2008 having lost her family home when she had been made redundant from her job;
- (b) the appellant had submitted a housing application to the Council in January 2010 on behalf of herself and her adult son; she had been placed in Band 6 of the Council's Housing Allocations Scheme as she had no housing need at that time;
- (c) the appellant had subsequently submitted self assessment medical forms in February 2010 and April 2010 relating to her asthma and depression and following assessment by the Council's Medical Adviser the appellant had been promoted to Band 4;
- (d) although further medical evidence regarding the appellant's depression had been submitted to the Council in May 2010 by Loughton Community Health, the appellant had not been awarded any additional preference by the Council's Medical Adviser;
- (e) in March 2010 the appellant had submitted a further self assessment medical form confirming the medical conditions previously advised and also stating that she suffered from chronic lung disease; the Council's Medical Adviser had assessed the appellant's condition again but had still not given any additional preference;
- (f) since March 2010 the appellant had started losing her hair and had serious medical conditions;

(g) officers had undertaken reviews of the appellant's banding in June 2011 and July 2011 and had confirmed Band 4 as being the correct banding for the appellant;

(h) the appellant's current property was damp; the appellant had complained to her landlord and a dehumidifier had been provided but this had not solved the problem; the damp conditions were affecting the appellant's health and her son had moved out of the property because his health had suffered;

(i) on 31 August 2011 the appellant had been served with an eviction order and would have to leave her current property on 29 November 2011; the appellant was anxious as to where she would live after that date;

(j) if the appellant became homeless she would meet two of the criteria in Band 4 of the Council's Housing Allocations Scheme and should be promoted to Band 3.

Questions from the Housing Options Manager to the Appellant

The appellant gave the following answer to a question from the Housing Options Manager:

(a) she had made arrangements for Council environmental health officers to inspect her property at 2 pm on 13 October 2011 but had not been present at the property at that time as she had taken her mother to hospital and had forgotten about the appointment with the Council.

Questions from Members of the Panel to the Appellant

The appellant gave the following answers to questions from members of the Panel:

(a) her loss of hair was stress related; she had no written evidence at present in support of this medical condition;

(b) the appellant's son suffered from asthma and it had been necessary for him to move out of the appellant's property due to the damp conditions; she would like her son to return to live with her and, if possible, her mother.

Presentation of the Case of the Housing Options Manager

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

(a) the appellant had submitted a housing application to the Council on 18 January 2010; within that application she had stated that she was seeking accommodation for herself and her adult son;

(b) on the housing application, the appellant had confirmed that she had been resident at her current property since 30 September 2008; the property was a two bedroom house which the appellant rented privately from a landlord;

(c) the appellant had been placed in Band 6 of the Council's Housing Allocations Scheme as she had no housing need at that time;

(d) as part of the assessment process, the appellant had submitted self assessment medical forms on 22 February 2010 and 6 April 2010; the appellant had confirmed her medical conditions as asthma and depression; the medical forms had

been assessed by the Council's Medical Adviser who had recommended that the appellant should be promoted to Band 4; the appellant had been advised on 21 April 2010 that she had been promoted to Band 4;

(e) on 13 May 2010 Loughton Community Health had submitted medical evidence relating to the appellant's history of depression; on a further assessment the Council's Medical Adviser had not awarded any additional preference;

(f) the appellant had submitted a further self assessment medical form on 2 March 2011; as well as stipulating her previous conditions she had stated that she was suffering from chronic lung disease; another medical assessment had been pursued but no additional preference had been allowed;

(g) the Citizens Advice Bureau had sought a review of the banding allocated to the appellant; the decision of the Housing Options Manager on the review had been sent to the appellant on 23 June 2011;

(h) the appellant had sought a further review by the Assistant Director of Housing (Operations) and his decision on the review had been sent to the appellant on 27 July 2011;

(i) in considering the case review, the Assistant Director of Housing (Operations) had taken account of all the facts of the case; he had been satisfied that the housing application made by the appellant had been dealt with in strict accordance with the Council's Housing Allocations Scheme; taking account of the opinion of the Council's Medical Adviser and the Council's policies set out in its Housing Allocations Scheme he had concluded that the appellant had been correctly assessed at Band 4;

(j) there were currently 199 households meeting the moderate medical conditions criteria in Band 4 but only 34 households meeting the strong medical conditions criteria in Band 1;

(k) the Council's Medical Adviser had been asked to provide a fresh medical opinion in relation to the appellant earlier this month and had taken account of the appellant's medical conditions, her repeat prescription, the damp conditions in her current property and had concluded that there was still insufficient medical evidence to increase the appellant's current level of medical preference to strong;

(l) the appellant had been served with a Section 21 Notice by her landlord in which he had been required to give at least two months' notice of his wish to repossess the property; the appellant had spoken to the Council's Homelessness Prevention Officer about her situation; when the appellant became formally homeless she would be able to seek further advice from the Council regarding her housing situation; the Council's Homelessness Prevention Team were under a lot of pressure and had to prioritise their work; accordingly they concentrated on those cases where homelessness was imminent; it was possible that the appellant could be assisted in obtaining an interest-free loan and/or a referral to the Epping Forest Housing Aid Service to assist with the initial costs of securing alternative privately rented accommodation.

Questions from the Appellant on the Case of the Housing Options Manager

The Housing Options Manager gave the following answers to questions from the appellant and Councillor Hart:

(a) it was accepted that the appellant had lived in the Epping Forest District since 1977 and in her current property since 2008;

(b) the Council would take all reasonable steps to help prevent homelessness; the appellant had been encouraged to work closely with the Council's Homelessness Prevention Team in order to try to resolve her housing situation but unfortunately she had not been able to keep an appointment which had been made to visit her property.

Questions from Members of the Panel to the Housing Options Manager

The Housing Options Manager gave the following answers to questions from members of the Panel:

(a) the Council could give assistance to private tenants through the Rental Loans Scheme which provided for payment of the first month's rent and/or a referral to the Epping Forest Aid Service to assist with the initial costs of securing privately rented property;

(b) the appellant had requested another appointment in relation to the inspection of her property.

Closing Statement by the Appellant

The appellant stated that she had been looking for a property to rent but she could not afford the rents being sought. Her Housing Benefit and Jobseekers Benefit were insufficient to pay the rents being sought and meet day to day living expenses. She was currently receiving £600 Housing Benefit per month and £60 per week Jobseekers Benefit. Rents being quoted to her were around £850 per month.

Closing Statement by the Housing Options Manager

The Housing Options Manager advised that whatever the decision the Panel reached, Council officers would continue to work with the appellant in an attempt to resolve her housing difficulties.

Deliberations

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

In coming to its decision, the Panel focussed on the assessment of the appellant's medical condition by the Council's Medical Adviser, the condition of the appellant's current property, and the officers' application of the Council's Housing Allocations Scheme. The Panel also considered the appellant's situation following the service by her current landlord of a notice under Section 21 of the Housing Act 1988 to regain possession of her current accommodation.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Council's adopted Housing Allocations Scheme and having taken into consideration the information presented by and on behalf of the appellant and by the Housing Options Manager in writing

and orally, the decision of the officers not to promote the appellant from Band 4 to a higher Band of the Allocations Scheme be upheld for the following reasons:

(a) the appellant is currently in Band 4 of the Council's Housing Allocations Scheme by virtue of meeting Criterion 4(b), namely:

“ 4(b) Homeseekers living in the District for more than a year immediately prior to the application, needing to move on moderate medical or welfare grounds or for reasons of disability, or needing to move to a particular locality in the District where failure to do so will result in them or others suffering hardship”;

(b) to be promoted to a higher band due to medical reasons could only be to Band 1 under the Allocations Scheme; to be eligible for Band 1 the appellant needs to meet one of the criteria in that Band; the appellant considers that she meets Criterion 1(b) of Band 1 (Homeseekers living in the District for more than a year immediately prior to application, needing to move on strong medical or welfare grounds or for reasons of disability);

(c) we have taken account of the fact that the appellant has submitted a number of medical self assessment forms; she suffers from asthma, depression and chronic lung disease apparently made worse by the damp conditions in her property; in accordance with the Council's Allocations Scheme, medical priorities are assessed by the Council's Medical Adviser taking account of all known facts relating to the application; the Council's Medical Adviser also has the benefit of seeing all cases where a medical assessment is required and is in the best position therefore to be able to compare cases and decisions on which cases constitute strong and which ones constitute moderate medical needs; we note that all the medical evidence submitted by and on behalf of the appellant has been assessed by the Council's Medical Adviser and that she has determined the need for the appellant to move is based on moderate medical grounds as required under Band 4 (Criterion (b)) but not strong medical grounds as required under Band 1 (Criterion (b)); the appellant also stated that she is suffering hair loss due to stress although she has not submitted medical evidence in support of this; we see no reason to disagree with the Medical Adviser's view, having regard to the evidence we have seen; we are therefore of the opinion that the appellant does not have a need to move on strong medical grounds;

(d) having regard to (c) above we do not consider that the appellant satisfies the requirements of Criterion (b) of Band 1; the evidence submitted does not indicate that the appellant meets any of the other criteria in that Band or any of the criteria in Bands 2 or 3;

(e) in all the circumstances, therefore, we are satisfied the officers' decision to assess the appellants for Band 4 is correct;

(2) That in relation to the appellant's criticism of the Council's Housing Allocations Scheme, she be advised that it is not within the Terms of Reference of the Panel to change the criteria for the Bands of the Allocations Scheme; the role of the Panel is restricted to determining whether an appellant has been correctly placed in a Band by officers

having regard to the facts; changes to the Allocations Scheme are made regularly by the Council's Cabinet after extensive consultation (including all housing applicants); accordingly, if the appellant wishes to pursue her criticisms of and seek changes to the Allocations Scheme she should respond when the next consultation exercise is undertaken;

(3) That in relation to the notice served on the appellant by her landlord under Section 21 of the Housing Act 1988 which expires on 29 November 2011 she be encouraged to work closely with the Council's Homeless Prevention Team in order to try to resolve her housing situation, bearing in mind that within 28 days of becoming homeless (ie when threatened with homelessness as defined by the Housing Act 1996) it is possible that on consideration of a formal homelessness application she may be placed in a higher band in the Council's Allocations Scheme, if she is found to be unintentionally homeless, but even if this is achieved she should be aware of the likely lengthy timescale for securing a Council property as properties are allocated from a shortlist of interested homeseekers, to the one in the highest Band with the oldest date of application; and

(4) That the appellant be encouraged to continue to seek alternative privately rented accommodation, and to discuss with the Homelessness Prevention Team the possibility of the Council providing an interest free loan and/or a referral to the Epping Forest Housing Aid Service to assist with the initial costs.

41. INCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be invited back into the meeting for the remaining item of business.

42. TERMS OF REFERENCE OF THE PANEL

In the light of consideration of recent appeals concerning Housing Register banding levels, the Panel discussed recommending to the Constitution and Members' Services Scrutiny Panel that such appeals should no longer come within the Terms of Reference of the Housing Appeals and Review Panel and should be determined by Housing Officers.

The Panel noted that in such cases its role was restricted to determining whether an appellant had been placed in the correct band of the Allocations Scheme by officers having regard to the facts. The majority of those appeals concerned priority given for medical conditions and as the Scheme specified that medical priority was determined by the Council's Medical Adviser, the Panel had little discretion in relation to such matters.

The five members present were unanimous that banding reviews should not be dealt with by the Housing Appeals and Review Panel but felt that before referring the matter to the Constitution and Members' Services Scrutiny Panel the views of the other members and substitutes of the Panel not present at this meeting should be sought.

RESOLVED:

That the Assistant Director (Democratic Services) establish the views of all members and substitutes of the Panel and submit a report to the Constitution and Members' Services Scrutiny Panel having regard to those views.

CHAIRMAN