

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Friday, 4 April 2014

Place: Committee Room 2, Civic Offices, High Street, Epping **Time:** 2.30 - 5.25 pm

Members Present: Councillors B Rolfe (Chairman), Ms J Hart, Ms G Shiell, Mrs P Smith and Mrs J H Whitehouse

Other Councillors:

Apologies: Councillors Mrs J Lea and K Avey

Officers Present: R Wilson (Assistant Director (Housing Operations)), J Hunt (Assistant Housing Options Manager (Homelessness)) and G Lunnun (Assistant Director (Democratic Services)) and Ms S Smith (Homeless Hostel Manager – for Application 2/2014 only)

24. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 10 February 2014 be taken as read and signed by the Chairman as a correct record.

25. SUBSTITUTE MEMBERS

The Panel was advised that Councillor Shiell was substituting for Councillor Lea and that Councillor Smith was substituting for Councillor Avey.

26. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members of the Panel in pursuance of the Code of Member Conduct.

27. 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 12(A) 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 Paragraph Number |
|---------------------------|--|--|
| 6 | Application Number 2/2014 | 1 |
| 7 | Application Number 3/2014 | 1 |
| 8 | Progress Report on previous Appeals/Applications | 1 |

28. APPLICATION 2/2014

Introduction

The Panel considered an application for a review of a decision made by officers under delegated authority that the applicant was intentionally homeless.

The applicant attended the meeting to present his case. Mr J Hunt, Assistant Housing Options Manager (Homelessness), attended the meeting to present his case. Mr R Wilson, Assistant Director (Housing Operations), attended the meeting to advise the Panel as required on relevant legislation and national and local housing policies relevant to the application.

The Chairman introduced the members of the Panel and the officers present to the applicant and sought the consent of the applicant and the Assistant Housing Options Manager (Homelessness) to Ms S Smith (Council Homeless Hostel Manager) attending the meeting for this application as an observer. Both parties agreed to Ms Smith being present.

The Chairman explained the procedure to be adopted for the meeting in order to ensure that proper consideration was given to the review of the application.

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

- (a) a summary of the case including the facts of the case;
- (b) the case of the Assistant Housing Options Manager (Homelessness);
- (c) copies of documents submitted by the Assistant Housing Options Manager (Homelessness), namely:
 - (i) a typed copy of notes dated 12 August 2013 of an interview of the applicant by a Housing Officer;
 - (ii) reports of the Council's Medical Advisor dated 20 August 2013 and 18 October 2013;
 - (iii) an email dated 6 February 2014 from the Council's Community Safety Officer to the Assistant Housing Options Manager (Homelessness), and a Police report regarding the arrest of the applicant;
 - (iv) letter dated 15 January 2014 from the Assistant Housing Options Manger (Homelessness) to the applicant;

- (v) report of the Council's Medical Advisor dated 2 December 2013 regarding the applicant;
- (vi) extracts from Shelter "Advice on Housing Law";
- (d) copies of documents submitted by the applicant, namely:
 - (i) his completed application form to the Housing Appeals and Review Panel dated 14 February 2014;
 - (ii) letter dated 4 February 2014 from the Epping Forest District Citizens' Advice Bureau to the Assistant Director of Housing and the enclosures sent therewith – form of authority from the applicant; letter dated 28 January 2014 from North Essex Partnership NHS Regent Road Centre to the applicant; letter dated 9 October 2013 from North Essex Partnership NHS Regent Road Centre to the Council's Homeless Prevention Officer; letter dated 23 January 2014 from the applicant's wife to "Whom it may concern"; letter dated 2 October 2013 from the Princess Alexandra Hospital to the Council's Housing Options Manager; undated letter from the Maynard Court Surgery to the Council; letter dated 21 November 2013 from Taylor Haldane Barlex, Solicitors to the applicant; letter dated 25 January 2014 from a resident of Cheshunt providing a character reference for the applicant;
 - (iii) letter dated 6 March 2014 from Edwards Duthie, Solicitors to the Council;
 - (iv) letter dated 3 April 2014 from Edwards Duthie, Solicitors to the Council.

Presentation of the Case of the Assistant Housing Options Manager (Homelessness)

The Panel considered the following submissions in support of the case of the Assistant Housing Options Manager (Homelessness):

- (a) the applicant was British and 47 years of age; he had approached the Council as homeless when he had been discharged from hospital following treatment for mental ill-health and had been unable to return home;
- (b) the applicant had been residing with his wife in a Housing Association rented property from 2000 to 8 June 2013 when he had been arrested for assaulting his wife;
- (c) the applicant had been eligible for assistance because he was British, homeless because had he no accommodation available to him and in priority need because of ill-health; initially officers had found the applicant not to be in priority need but following further advice from the Council's Medical Advisor the applicant had been considered vulnerable on physical health grounds;
- (d) the applicant had been arrested for assaulting his wife on 8 June 2013; the Police Report of Crime described the applicant's offence as pushing and kicking his wife causing no visible injuries; one of the applicant's wife's children had been present during the incident and the Police had marked the incident as domestic abuse; the applicant had been found guilty of "battery", given a conditional discharge for 24 months, and required to pay costs of £200 and a victim surcharge of £15;
- (e) Officers had determined that the applicant had made himself intentionally homeless because it had been considered that the applicant's assault on his wife had

been a deliberate act committed by him in full responsibility of his actions and not occasioned by a temporary aberration;

(f) the applicant had requested a review of the officers' decision and he had continued to be housed in bed and breakfast accommodation provided by the Council pending the outcome of this review;

(g) in making homelessness decisions, the Council must have regard to the Homelessness Code of Guidance which was required to be used by local authorities to assist with the interpretation of the homeless legislation; the Code of Guidance on Homelessness (Paragraph 11.7) stated that a person became homeless, or threatened with homelessness intentionally if he or she deliberately did or failed to do anything in consequence of which he or she ceased to occupy accommodation; the accommodation was available for his or her occupation; and it would have been reasonable for him or her to continue to occupy the accommodation;

(h) the letter from the Citizens' Advice Bureau in support of the applicant had referred to the applicant's incident with his wife as more of a domestic skirmish than an attack by the applicant; however, the Police report clearly stated that the applicant had pushed and kicked his wife and in Court he had been found guilty of "battery";

(i) the Citizens' Advice Bureau and the applicant's solicitors had contended that the applicant had been required to leave the family home due to the breakdown of his marriage and not as a result of the incident with his wife; the Panel should have regard to the Shelter "Advice on Housing Law" and in particular the section regarding rights to occupy the home; where a couple were married and the property was in one name only (the tenancy for the matrimonial home had been in the applicant's wife's name only) both parties had legal rights to occupy the matrimonial home regardless of who was the tenant; the non-tenant partner had the right to occupy because he had matrimonial home rights under family law and these rights continued until the marriage or the tenancy ended; in the case of a marriage breakdown it was not always the case that one person had to leave the home, in many cases both the husband and wife continued to live in the home although it was accepted that this could be difficult;

(j) the applicant's solicitors had also submitted that the matrimonial home was not available to the applicant; this submission was not accepted as it was considered that the applicant had continued to have equal rights to occupy the property and it was considered reasonable for the applicant to continue to live there having done so for 12 years;

(k) the applicant's solicitors had also submitted that the applicant had not committed a deliberate act as it was asserted that the alleged act was the result of limited mental capacity and/or a temporary aberration; the Panel should have regard to the advice from the Council's Medical Advisor who had stated that the applicant was likely to have underlying personality difficulties with impulsive behaviour compounded by harmful misuse of psychoactive substances; the Advisor had also pointed out that there was no evidence to suggest that the applicant was experiencing an aberration of mind either temporary or permanent during the period in question which resulted from acute or any significant mental illness; the Medical Advisor had concluded that the applicant had not been mentally unwell at the time;

(l) it was considered the applicant's assault against his wife had been a deliberate act; the applicant had pushed and kicked his wife leading to his arrest, vacation from the matrimonial home and subsequent conviction for "battery"; it was

considered that the matrimonial home would have continued to be available for his occupation had he not assaulted his wife; it was also considered that the matrimonial home would have been reasonable for the applicant to occupy had he not assaulted this wife as he has resided at the property, a three bedroom Housing Association property, for over 12 years;

(m) the Panel was invited to uphold the officers' decision and in that event to give the applicant reasonable notice to leave the bed and breakfast accommodation being provided by the Council.

Questions from the Applicant on the Case of the Assistant Housing Options Manager (Homelessness)

The Assistant Housing Options Manager (Homelessness) gave the following answer to a question from the applicant:

- the references to the applicant pushing and kicking his wife during the incident on 7/8 June 2013 were based on the Police report; the letter dated 21 November 2013 from Taylor, Haldane, Barlex, Solicitors to the applicant had not been made available to the Council Officers when they had made the homeless intentionality decision on 15 January 2014.

Questions from Members of the Panel on the Case of the Assistant Housing Options Manager (Homelessness)

The Assistant Housing Options Manager (Homelessness) gave the following answers to questions from Members of the Panel:

- (a) it was accepted that there was conflicting evidence about the incident between the applicant and his wife on 7/8 June 2013; officers had given greater weight to the Police report and the decision of the Court;
- (b) the applicant was currently being accommodated in an annex at one of the hotels used by the Council to house homeless people in bed and breakfast accommodation;
- (c) if a man approached the Council as homeless as a result of a relationship breakdown, the Council's response would depend on the circumstances; often in divorce proceedings an order was made for one of the parties to leave the matrimonial home but in other cases both parties continued to live in the matrimonial home; in other cases one of the parties might elect to leave the matrimonial home and find their own accommodation; Council Officers had to determine whether a person was homeless, whether a person had accommodation available to them, and whether a person was in priority need;
- (d) when the applicant had attended the Council in August 2013 he had shown officers the Police report of the incident with his wife; Housing Officers had approached the Council's Community Safety Officer and been provided with the email dated 6 February 2014 which was before the Panel; the reasons for the conflicting evidence were not known but on balance the Officers had given more weight to the Police report;
- (e) it was accepted that drugs and alcohol could affect one's mental capacity; however the Panel should have regard to the advice from the Council's Medical Advisor.

(f) the applicant had been accommodated at bed and breakfast accommodation provided by the Council since 12 August 2013.

Presentation of the Applicant's Case

The Panel considered the following submissions made by and on behalf of the applicant:

(a) the applicant had numerous medical conditions including Crohn's Disease, giving rise to embarrassing side effects, which had resulted in surgery; he also suffered with mental ill-health and had attempted suicide; he was on anti-depressant medication and received on-going support from the North Essex Partnership NHS Regent Road Community Mental Health Team;

(b) the incident between the applicant and his wife on 7/8 June 2013 had been more of a domestic skirmish than an attack by the applicant; the applicant's wife had admitted to be the first to push the applicant who had retaliated by pushing her; the applicant's wife had suffered no injury and had not required medical attention; the applicant's wife had wanted the marriage to end and the incident had ensued; the applicant was a kind, caring man but suffered with depression; he had been under medication which could have resulted in him behaving out of character; the applicant's wife had called the Police to remove her husband and the situation had escalated; the applicant had been embarrassed by the situation and had pleaded guilty in Court in order that his wife's children were not called to give evidence; the applicant had pleaded guilty to the assault on the basis of a single push and the applicant had been sentenced to a conditional discharge for the period two years;

(c) the applicant's solicitors submitted that the applicant could not be regarded as homeless intentionally from the matrimonial home because it could not be reasonably or safely concluded on the evidence that the assault on his wife had been the cause of his homelessness; they also submitted that it was clear from the evidence that the applicant's wife had asked the applicant to leave the property due to the breakdown of the relationship and that the offence had followed rather than proceeded that request and therefore could not be said to be the cause of the applicant's homelessness; the solicitors requested the Panel to pay particular regard to Section 191 of the Housing Act 1996, and Paragraphs 11.17, 11.6, and 11.11 of the Homelessness Code of Guidance;

(d) the applicant's solicitors had drawn attention the statements made by the applicant's wife that she had asked the applicant to leave the matrimonial home because the marriage had broken down and she could not cope with the applicant's mental state; she also had stated that the applicant was not a violent person and during their 12 years together he have never been violent to her or her children at any time;

(e) the Panel should have regard to a note of an interview with the applicant which was on the applicant's Homelessness file which recorded that the applicant's marriage had broken down; that the applicant had established several years ago that his wife was having an affair but they had worked through that only for the applicant to find a text message on his wife's phone from another man;

(e) the Council Officers had failed to come to a decision themselves and had rubber-stamped the Council's Medical Advisor's opinion which was contrary to the correct approach;

(f) following the applicant's wife's affair some years ago the applicant had met another woman and had intended to live with her but she had died following which the applicant's wife had regularly raised issues with him about the deceased woman and this had contributed to the applicant drinking and taking drugs and attempting suicide;

(g) the applicant had attempted to find a privately rented property but landlords were not prepared to accept someone who was reliant on benefit payments; the applicant had been referred to NACRO Housing but he had not met their eligibility criteria.

Questions from the Assistant Housing Options Manager (Homelessness) to the Applicant

The applicant gave the following answers to questions from the Assistant Housing Options Manager (Homelessness):

(a) the original letter dated 23 January 2014 from the applicant's wife had been signed but officers in compiling the agenda papers had removed the signature for Data Protection reasons;

(b) the applicant had always believed wrongly that he was a joint tenant of the Housing Association property;

(c) the applicant's wife had three children when the applicant had met her; the children's father had died and the applicant had helped to bring up the children; the applicant's relationship with the children had been another reason for him wishing to stay in the matrimonial home despite the difficulties with his wife.

Questions from Members of the Panel to the Applicant

The applicant gave the following answers to questions from the Members of the Panel:

(a) the applicant could not recall the incident with his wife on 7/8 June 2013; during the morning of 7 June 2013 the applicant's wife had informed the applicant that she wished him to leave the matrimonial home; he had gone to a friend's property for a few hours and had received abusive telephone calls from his wife; when he had returned to the matrimonial home the applicant had informed his wife that he was unable to give her any of his benefit money as he had spent it on drink; the applicant had woken up in hospital on 8 June 2013 having taken an overdose and had been charged with assault;

(b) the applicant's wife's children were aged 30, 21 and 18; the youngest children continued to live in the matrimonial home with the applicant's wife;

(c) there was no possibility of the applicant and his wife resuming their relationship;

(d) the applicant had approached the Council approximately three years ago about being homeless when he had become aware of his wife having an affair; the Housing Officer he had seen in August 2013 had remembered him from his previous visit; he had not pursued the issue three years ago as he had decided to stay with his wife despite the difficulties;

(e) the applicant did not know who had called the Police following the incident with his wife on 7/8 June 2013;

(f) the applicant did not know why the Police report made no reference to him being unreceptive until he had woken up in hospital on 8 June 2013;

(g) the applicant had expected his solicitors to be present at this meeting but when he had phoned them yesterday they had stated that they would not be present; a representative from the Mental Health Team had offered to accompany him to this meeting but he had replied that this would not be necessary as at the time he had thought that his solicitors would be present;

(h) from 8 June 2013 until being accommodated by the Council in bed and breakfast accommodation on 12 August 2013 the applicant had spent time in a hospital ward, at the Derwent Centre at Princess Alexandra Hospital, in another similar establishment and on a sofa in a friend's property;

(i) since being accommodated in the bed and breakfast accommodation the applicant had been admitted to Princess Alexandra Hospital as a result of a stomach complaint; the applicant had not wanted to have surgery to correct the problem due to the implications and whilst the complaint had improved it was still not right;

(k) correspondence was still being sent to the applicant at the matrimonial home; when this happened his wife telephoned him and he collected the mail; the applicant had not advised others of the bed and breakfast accommodation as his address as he had not known how long he would be there;

(l) the applicant regarded himself as married but separated;

(m) the applicant had not apologised to his wife in relation to the incident on 7/8 June 2013 as he could not remember what had happened;

(n) the applicant had sold his golf clubs; the applicant still had possessions stored in the matrimonial home;

(o) the applicant's wife had expected the applicant to return to the matrimonial home on 7 June 2013 after he had visited a friend and had indicated that she would be prepared to allow the applicant to stay at the matrimonial home on the night of 7/8 June 2013 even though she wanted him to leave the property;

(p) the applicant had never been violent.

Summing Up

The applicant re-emphasised the reasons he had taken alcohol and drugs and referred to the difficulty of visiting his father due to his current circumstances.

The Assistant Housing Options Manager (Homelessness) stated that he had nothing to add to his case.

Deliberations

The Chairman indicated the Panel would consider the matter in the absence of both parties and that the applicant and the Assistant Housing Options Manager (Homelessness) would be advised in writing of the outcome. The applicant, the

Assistant Housing Options Manager (Homelessness) and the Council's Homeless Hostel Manager then left the meeting.

In coming to its decision, the Panel focussed on the reasons for the applicant being homeless.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Code of Guidance on Homelessness, and having taken into consideration the information presented by and on behalf of the applicant and by the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of the officers that the applicant was homeless intentionally when he assaulted his wife and was required to leave the family home be not upheld for the following reasons:

(a) the applicant when applying as homeless to the Council in August 2013 had been eligible for assistance being British, found to be homeless because he had no accommodation available to him; and found to be in priority need because of his ill health; the applicant had been in receipt of Employment and Support Allowance for approximately 14 years;

(b) from 2000 until June 2014 the applicant had lived with his wife and two of her children from a previous marriage in a Housing Association three bedroom property;

(c) the applicant's wife had been the sole tenant of the Housing Association property;

(d) the applicant and his wife had a history of infidelity and on 7 June 2013 the latter had stated that she considered the marriage to be over and had asked the applicant to leave the Housing Association property; the applicant had gone to a friend's property for a few hours and had returned to the Housing Association property having been drinking and using illegal substances; the applicant could not recall the incident which had taken place with his wife and had woken up in hospital having taken an overdose where he had been arrested for assaulting his wife;

(e) on discharge from the hospital ward the applicant had been admitted to the mental health crisis resolution centre at the hospital;

(f) on being discharged from the mental health crisis resolution centre at the hospital, the applicant had spent several weeks living in his van and with a friend until he had been accommodated by the Council on 12 August 2013;

(g) on 13 November 2013 the incident between the applicant and his wife on 7/8 June 2013 had gone to Court and the applicant, having pleaded guilty to assaulting his wife on the basis of a single push had been convicted of Battery (an unlawful physical attack on another person) and had received a Conditional Discharge from the Court;

(h) the applicant suffered from Crohn's Disease, depression, mental ill health and had attempted suicide three times since January 2013; he was under the care of the Epping Community Mental Health Team for his psychological health;

- (i) the Panel were made aware of the rights of married couples where one of them is a sole tenant to occupy the family home are governed by housing law; the non-tenant partner has the right to occupy because s/he has matrimonial home rights under family law; these rights continue until the marriage or tenancy ends; the non-tenant partner has the right to occupy the matrimonial home and not to be excluded, except by a court order;
- (j) account has been taken of the submissions of the applicant's solicitors that the applicant's assault of his wife was the result of limited mental capacity and/or a temporary aberration;
- (k) account has also been taken of further submissions made by the applicant's solicitors that at the time of the assault on his wife the family home was not available for occupation by the applicant as his marriage had broken down and this had caused his homelessness not the assault;
- (l) the evidence regarding the incident between the applicant and his wife on 7/8 June 2013 available to Council officers at the time of making their decision had been the Police report and the decision of the Court; the Police report had stated that the applicant had pushed and kicked his wife causing no visible injuries; the Panel had the benefit of additional evidence not made available to the officers, namely the applicant had received abusive telephone calls from his wife and that on returning home he had informed his wife that he could not give her any of his benefit money as he had spent it on drink; as a result his wife had been upset and in a letter to the Panel she had stated that she had argued with the applicant and she had pushed the applicant first and that the applicant had retaliated only by pushing her; she had also stated that during the 12 years she had been with the applicant he had at never been violent to her or her children; she had further stated that she had called the Police but they had taken the matter out of perspective and the situation had escalated;
- (m) further evidence submitted to the Panel by the applicant but not made available to officers at the time of making their decision was that the applicant had only pleaded guilty in Court in order to avoid his wife's children being called by the Crown Prosecution Service to give evidence;
- (n) the Panel was informed by the applicant that approximately three years ago the applicant had approached the Council about being homeless when he had become aware of his wife having an affair; in support of this statement the applicant informed the Panel that the Housing Officer he had seen in August 2013 had remembered him from his previous visit; the applicant informed the Panel that he had not pursued the issue three years ago as he had decided to stay with his wife despite the difficulties; the applicant informed the Panel that he had met another woman but she had died following which his wife had regularly raised issues with him about the deceased woman and this had contributed to him drinking and taking drugs and attempting suicide;
- (o) having regard to the evidence submitted, on balance, the Panel is of the view that the breakdown of his marriage resulted in the applicant being homeless and not the incident with his wife which had resulted in him being convicted of assaulting her;
- (p) the Panel has concluded therefore that the applicant did not make himself homeless intentionally;

(2) That no deficiency or irregularity has been identified in the original decision made by the Council Officers or the manner in which it was made, having regard to the information available to officers at the time of making their decision;

(3) That the officers establish whether the applicant has a local connection with the District;

(4) That subject to the outcome of (3) above, the officers work with the applicant to find him settled accommodation as soon as possible and that in the interim he continue to be provided with temporary accommodation”.

29. APPLICATION 3/2014

Introduction

The Panel considered an application for a review of a decision made by officers under delegated authority that the applicant was intentionally homeless.

The applicant attended the meeting to present his case supported by Ms R Calderwood of Family Mosaic. Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case. Mr R Wilson, Assistant Director (Housing Operations), attended the meeting to advise the Panel as required on relevant legislation and on national and local housing policies relevant to the application.

The Chairman introduced the members of the Panel and officers present to the applicant.

The Chairman explained the procedure to be adopted for the meeting in order to ensure that proper consideration was given to the review of the application.

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

- (a) a summary of the case including the facts of the case;
- (b) the case of the Assistant Housing Options Manager (Homelessness);
- (c) copies of documents submitted by the Assistant Housing Options Manager (Homelessness), namely:
 - (i) a typed copy of notes dated 8 October 2013 of an interview of the applicant by a Housing Officer;
 - (ii) an email sent on 17 December 2013 by the Council's Community Safety Officer to the Assistant Housing Options Manager (Homelessness);
 - (iii) a Police report of an incident between the applicant and his wife on 27 September 2013;
 - (iv) a copy of an email sent on 13 March 2013 from Essex Police to the Council's Community Safety Officer;

- (v) a copy of an Essex Probation Court Process form regarding an incident between the applicant and his wife;
- (vi) Court papers regarding the incident between the applicant and his wife on 27 September 2013;
- (vii) letter dated 24 January 2014 from the Assistant Housing Options Manager (Homelessness) to the applicant;
- (viii) copies of documents submitted by the applicant, namely:
 - (i) his completed application form to the Housing Appeals and Review Panel dated 3 March 2014;
 - (ii) letter dated 27 February 2014 from Family Mosaic to "Whom it may Concern".

Presentation of the Case of the Assistant Housing Options Manager (Homelessness)

The Panel considered the following submissions in support of the case of the Assistant Housing Options Manager (Homelessness):

- (a) the applicant was Irish and 69 years of age; he had approached the Council as homeless after he had been bailed not to return to Waltham Abbey or to contact his wife who lived in the town;
- (b) the applicant had resided with his wife in Waltham Abbey from 1996 until his arrest on 28 September 2013 for assaulting his wife;
- (c) the applicant had been eligible for assistance because he had an Irish passport, homeless because he had no accommodation available to him and in priority need because of his age;
- (d) on 27 February 2014, the applicant had been convicted of assault occasioning actual bodily harm; the Police report of the incident showed that the applicant had hit and kicked his wife causing injuries; the applicant had received a 12 month Community Order;
- (e) Officers had decided that the applicant had made himself intentionally homeless; pending the outcome of this review the applicant had been housed by the Council in bed and breakfast accommodation;
- (f) the Council must have regard to the Homelessness Code of Guidance which was required to be used by local authorities to assist with the interpretation of the homeless legislation; the Code of Guidance on Homelessness (paragraph 11.7) stated that a person became homeless or threatened with homelessness, intentionally: if he or she deliberately did or failed to do anything in consequence of which he or she ceased to occupy accommodation; the accommodation was available for his or her occupation; and it would have been reasonable for him or her to continue to occupy the accommodation;
- (g) in support of the applicant, Family Mosaic had drawn attention to the applicant's age and the extreme difficulty he had with his memory; it was not clear how these issues impacted on the domestic violence incident and the determination of homeless intentionally;

(h) Family Mosaic had referred to the applicant having a psychological report carried out via the Probation Service but this had not been received by the Council; the Officers had not received any evidence to suggest that the applicant suffered from mental ill-health;

(i) the officers considered that the applicant's assault against his wife had been a deliberate act; the applicant had hit and kicked his wife leading to his arrest, exclusion from the matrimonial home and conviction for assault occasioning actual bodily harm; as a consequence of the domestic abuse the applicant had ceased to occupy the matrimonial home;

(k) Officers considered the matrimonial home would have continued to be available for the applicant's occupation had he not assaulted his wife; officers also considered that the accommodation would have been reasonable for the applicant to occupy had he not assaulted his wife as he had resided at the property, a three bedroom owner occupied home, for over 16 years; officers considered that ceasing to occupy the matrimonial home could reasonably be regarded at the time as the likely consequence of the deliberate act;

(l) the Panel was invited to uphold the officers' decision; in the event that decision was upheld the applicant should be given reasonable notice to leave the bed and breakfast accommodation provided by the Council.

Question from the Applicant on the Case of the Assistant Housing Options Manager (Homelessness)

The applicant advised that he had no questions to ask of the Assistant Housing Options Manager (Homelessness). He stated however that he regretted the assault against his wife and that he would always live with that regret as his wife subsequently had died.

Questions from Members of the Panel on the Case of the Assistant Housing Options Manager (Homelessness)

The Assistant Housing Options Manager (Homelessness) gave the following answers to questions from members of the Panel:

(a) the officers did not have any evidence to suggest that the applicant had been violent on any other occasion;

(b) the matrimonial home had been owned by the applicant's late wife although there had been another name on the mortgage (with the consent of the Chairman, the applicant advised that the other name on the mortgage document had been his late wife's previous husband who had died and who had been one of the applicant's brothers); it was understood the applicant had not had a financial interest in the matrimonial home although details of the sale of the property were not known;

(c) Officers had not been made aware of the death of the applicant's wife (with the consent of the Chairman, the applicant stated that his wife had died just over a year ago – when it was pointed out that this could not be correct as the assault had taken place in September 2013 the applicant's supporter referred to the applicant's poor memory);

(d) it was not considered the death of the applicant's wife altered the decision taken by the officers; the decision had to be based on why the applicant had become homeless;

(e) it was a matter for the Panel to decide whether to defer this review pending the receipt of additional information.

Members of the Panel expressed concern about the lack of evidence in support of the applicant's case. The Assistant Director (Democratic Services) pointed out that it was for the applicant to submit documents in support of his case and not Council Officers. Ms Calderwald advised that the Probation Service had informed Family Mosaic that a copy of the psychological report had been sent to the applicant and that they would be prepared to release a copy to the Council on request but were not prepared to give a copy to Family Mosaic.

The Panel indicated that they were minded to defer consideration of the application to enable the applicant to obtain further evidence in support of his case. The applicant accepted that deferment of his application would result in the review not being determined within the statutory 56 day period and he stated that he would not challenge the Council for failing to meet that deadline.

RESOLVED:

(1) That consideration of Application 3/2014 be deferred until the next meeting of the Panel on 12 May 2014 in order to allow the applicant sufficient time to obtain additional documents in support of his case including the psychological report; and

(2) That the applicant continue to be accommodated at the bed and breakfast accommodation provided by the Council pending determination of the review.

30. PROGRESS REPORT ON PREVIOUS APPEALS/APPLICATIONS

The Panel considered a progress report on recent appeals/applications where the case was still active within the Communities Directorate.

RESOLVED:

That the following cases be deleted from the schedule:

4/13, 2/13 and 1/13.

CHAIRMAN