

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Monday, 6 October 2014

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 4.30 pm

Members Present: Councillors B Rolfe (Chairman), Mrs J Lea (Vice-Chairman), L Mead and Ms G Shiell

Other Councillors:

Apologies:

Officers Present: R Wilson (Assistant Director (Housing Operations)), J Hunt (Assistant Housing Options Manager (Homelessness)), D Barrett (Area Housing Manager (South)), J Chenery (Housing Officer) and A Hendry (Democratic Services Officer)

6. SUBSTITUTE MEMBERS

The Panel was advised that there were no substitute members present.

7. DECLARATIONS OF INTEREST

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

8. 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 Paragraph Number
5	Application No. HS/RW/MB/6//2014	1

9. Application HS/RW/MB/6/2014

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 her case supported by her husband.

Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case. He was supported by D Barrett, Area Housing Manager and J Chenery, Housing Officer. 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) 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) Acceptance of Non-Secure Tenancy agreement, dated 1 July 2013;
 - (ii) Notice of appointment (with Bailiff) dated 21 July 2014;
 - (iii) Transaction History of rent paid from August 2013 to September 2014;
 - (iv) List of calls and correspondence made by the Council to the applicant from August 2013 to September 2014 concerning their arrears;
 - (v) Notice to Quit, dated 15 January 2014;
 - (vi) Council's Housing Management Team instructions to Legal Services to commence court action, dated 19 February 2014;
 - (vii) Interview with the applicant dated 8 August 2014;
 - (viii) Affordability assessment dated 8 August 2014; and
 - (ix) Homelessness decision letter, dated 15 August 2014.
- (d) Copies of documents submitted by the applicant, namely:
 - (i) Letter from the Applicant stating her case, received on 27 August 2014.

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

- (a) The Panel considered the following submissions in support of the case of the Assistant Housing Options Manager (Homelessness):
- (b) The applicant was British and 31 years of age. She had been evicted from her Epping Forest District Council non-secure tenancy due to rent arrears in September 2014.

- (c) The applicant had been granted a non-secured tenancy because Norway House, the Council's homelessness Hostel, was not considered at the time to be suitable because of the special needs of their son.
- (d) The Council's Housing Management Team made a number of phone calls and sent letters to remind the applicant of the need to pay their rent on time and the consequences if they failed to do so.
- (e) Due to persistent rent arrears the Council issued the applicant with a Notice to Quit on 17 January 2014 and following expiry of the Notice, the Council's Housing Management Team instructed Legal Services to commence Court action on 19 February 2014.
- (f) Possession was granted by the Courts to the Council.
- (g) The applicant was then requested to attend an interview with the Council's Homelessness Assessment Officer to determine if the duty to accommodate her should be discharged because she may be threatened with homelessness intentionally. The applicant stated that she had rent arrears because her husband's wages had changed from being paid weekly to monthly and that they had debts to pay. She also stated that she was not entitled to Housing Benefit to assist her with paying the rent because their income was too high.
- (h) She also completed an Affordability Assessment Form which showed that the family's monthly income was £1,710 whilst the expenditure was £1,247 and debt payments of £270 per month. The total being £1,517 per month which included the rent for the property.
- (i) At an interview with the applicant on 8 August 2014 the Housing Officer had confirmed that as at July 2014 the rent arrears amounted to £454.97 plus £244.50 court costs, a total of £699.47 which had since been reduced. The applicant had indicated that she wanted to pay the debt by Direct Debit but the bank had turned the Direct Debit down. The Housing Officer informed her that because they had sought outright possession a Direct Debit would have been invalid.
- (j) Asked why the rent had not been paid, the applicant said that her husband was originally getting paid weekly but this had changed to monthly, which had started the problem.
- (k) the Panel noted the relevant homelessness legislation and the Code of Guidance (11.7) states that: *a person becomes homeless or threatened with homelessness intentionally, if:*
 - i) *he or she deliberately does or fails to do anything in consequence of which he or she ceases to occupy accommodation (or the likely result of which is that he or she will be forced to leave accommodation)*
 - ii) *the accommodation is available for his or her occupation, and*
 - iii) *it would have been reasonable for him or her to continue to occupy the accommodation*

The Code of Guidance (14.17 vii) states that: *under Section 193 (2) the housing authority will also cease to be subject to the duty (to accommodate) if the applicant becomes homeless intentionally from accommodation made available under section 193 (temporary accommodation).*

- (l) The Assistant Housing Options Manager (Homelessness) concluded that there was a wilful persistence to not pay the full rent. It was a one bedroom flat at a low rent of £82.49 per week, her total income was sufficient for the rent to be paid. She had stated that it had started with her husband going from weekly to monthly payment but this had been going on for some time before. While he understood that she had debts to pay, that would not have stopped her from paying her rent. She had over the time she had spent at the address in question, received phone calls and letters from Housing Officers telling her of the arrears and what she needed to do. It would have been reasonable for the applicant to occupy the accommodation in question, which would still have been available to occupy if the rent had been paid in full.
- (m) The Panel was invited to uphold the officer's decision; in the event of upholding the decision, the applicant should be given reasonable notice to vacate the Council's Homeless Person's Hostel and, with her consent, a referral should be made to Children and Families Services on account of the applicant's child being at risk of homelessness.

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

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

- (a) He accepted that officers had not contacted them using e-mails, but only used the telephone and letters as detailed in appendix 4 of the agenda.

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

The Panel had no questions for the Assistant Housing Options Manager (Homelessness).

Presentation of the Applicant's Case

The Panel considered the following submissions made by the applicant:

- (a) The applicant's husband said that he had started work in July last year working on a packing line and was then promoted to be a fork-lift driver. As this meant better wages he was made ineligible for Housing Benefit. He was concerned that he was now being paid monthly and this would affect his ability to pay the weekly rent.
- (b) By January 2014 they were in rent arrears and in March they had been given a court date. He then asked how much he needed to pay to catch up on the rent and was told £900. They obtained a "Pay Day" loan and paid back £550 and £300 in March and April 2014. He was also told that he could pay the court costs in instalments.
- (c) The applicant said that they were told that they could pay back the arrears and then pay £400 a month rent. They still could not get any Housing Benefit as her husband's wages were still too high. The Citizen Advice Bureau had informed them that that they were entitled to some Housing Benefit, but they

were unsure about this. They were also unsure about what an unsecured Housing Tenancy was. They thought that they would be offered a different property.

- (d) The applicant noted that after she had missed her court appearance, she had asked about her options and was told that she needed to wait for the eviction letter. She had wanted a Direct Debit set up, but this was refused. Her husband said that he took out some cash to pay the rent and then found that a payment had been made by direct debit on 1 August as indicated on their transaction history. It was noted that a Direct Debit payment was made on 1 September 2014 which was then followed by an unpaid Direct Debit. When they agreed to pay by Direct Debit they understood they would not need to go to court as they had made arrangements to pay back their arrears. They were surprised to be called to court. They were then told by the Judge that it was not about the rent arrears but because they of their non-secure tenancy.
- (e) Councillor Rolfe asked if the officers could explain what a non-secure tenancy was? Mr Hunt said that non-secure accommodation was provided on rare occasions in exceptional circumstances to homeless people. Once the Notice to Quit had been served and had expired, that would bring the tenancy to an end. The Council then had to go to court to get the property back; once this was done the Judge had very little discretion. This action was taken because of the rent arrears. Officers were also asked what a N244 form was as it was referred to in the presentation. Mr Hunt replied that when possession was granted the tenant could ask for a Stay Hearing, by completing a N244 form to stop the action and this was put in. Unfortunately, the Judge had no discretion but to grant possession. Councillor Rolfe wanted it clarified that none of this would have happened without rent arrears; and was told this was correct.
- (f) The applicant stated that if not for her husband being paid monthly, she would not be four weeks behind. She would need to borrow money for four weeks rent to get ahead. She then asked that if they were going to be evicted, why had officers asked her to put in a N244 form, as this just gave them false hope that they would not get evicted, which was heart-breaking as this was one day before the eviction.
- (g) The applicant asked the Assistant Housing Options Manager (Homelessness) why their decision took 6 months to complete while other people's took only about two months. Mr Hunt replied that applications take different times to complete depending on various factors, including the number of other cases they have.

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 applicants husband explained that when he first started his current job he started on a Friday and therefore his first weeks wages was only £50 for one days work. He started full time work from the next week. He appreciated that he should not have taken that job as it cost him too much in travelling expenses. But he had always thought that he should take any job and pay his

debts. His rent arrears, as of the day of the meeting, was only £123 and that was only because of the Court Case charges.

Questions from Members of the Panel to the Applicant

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

- (a) When they moved in they had no furniture or cooker and had to buy those items. Also the job that the applicants husband took, added a £600 a month travelling bill for him and his child just for him to travel to work and for his child to travel to school. These costs were noted in the applicant's letter to the Panel and partly on their Affordability Assessment.
- (b) The flat and the application for homelessness was all in the Applicant's name as she was the one who filled in the forms. But all the earnings listed were her husbands.
- (c) In July 2013 when they took up the flat, the applicant's husband was being paid weekly. He started being paid monthly in October.
- (d) They knew they were in arrears for some time, but were only really made fully aware of this when the wages became monthly. They were told at the time by a Council Officer that they should pay an extra £10 to try and catch up. They were eventually advised to contact the Citizen Advice Bureau.
- (e) They were made homeless at their previous address because the landlord did not want to renew the tenancy. At this time the applicant's husband was not earning enough and were in receipt of Housing Benefit.
- (f) Because of their son's condition, they needed to keep their son occupied and so have to take him out regularly. However, they do not receive any disability allowance for him although he does have a doctor's diagnosis and is in receipt of Special Educational Needs help at his main stream school.
- (g) The Applicant's husband's travelling fares vary as he was using the transport network at different times. He had to start work at 7.30am which means he has to take a cab to Epping Station as it takes too long to walk. He then uses an Oyster Card and as he works in Tilbury and has to take a C2C train. This all costs him £108.50 per week. His sons fares to school cost £48 per week, which makes up the £600 per month travelling expenses.
- (h) My son is comfortable in the school he is in and we do not wish to move him.
- (i) We have a payday loans of £2,700, which we pay back £300 per month.
- (j) Their Council Tax debt had increased when he came off Job Seekers allowance and he started work.
- (k) We have never paid full rent on any property we have rented in the past as we have always received Housing Benefit. Also we did not know about the Council schemes or charities that could help us with buying our furniture. We were not offered any help from the Council.

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

- (a) I was not aware of the structural problems that you had report to the Council.

Summing up by the Applicant

They had not been in this situation before and did not understand this type of tenancy. They thought they had sorted it out in March when they took out a loan to pay the arrears back.

Summing up by the Assistant Housing Options Manager (Homelessness)

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

Deliberations

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the applicant and the Assistant Housing Options Manager (Homelessness) would be advised in writing of the outcome. The applicant was invited to contact Democratic Services by noon the following day when they would be advised verbally of the decision. The applicant, her husband and the Assistant Housing Options Manager (Homelessness), Area Housing Manager and the Housing Officer then left the meeting.

In coming to its decision, the Panel focussed on:

- (a) Reaching a view on why the applicant had not paid the rent for her Council rented property;
- (b) Whether the applicant had deliberately done or failed to do anything as a consequence of which she had ceased to occupy the property; and
- (c) Whether the property would have been affordable and reasonable for the applicant had she continued to occupy it.

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 from the Council property she occupied from 1 July 2013 and 4 September 2014 be upheld for the following reasons:

- (a) the applicant when applying as homeless had been eligible for assistance and had been granted a non-secure tenancy of a Council flat between 1 July 2013 and 4 September 2014, as part of the Council's homeless duty;

- (b) the rent and charges of the flat was considered affordable at £82.49 per week;
 - (c) the applicant's husband was in employment earning a household income of £1,350 per month and with other benefits taking the total monthly income to £1,710 with monthly expenditure of £1,247 per month and an extra £270 per month on loan repayments. Making a total of £1,517 per month which had included the rent for the property;
 - (d) the affordability assessment for the month after the service of notice showed that the applicant had sufficient income to pay her rent and other necessities;
 - (e) the applicant had not been entitled to Housing Benefit over this period to assist her in paying the rent as her husband's wages was too high to be entitled to it;
 - (f) Council Officer's stated that they had made numerous phone calls and sent various letters to the applicant informing them about the arrears;
 - (g) the applicant and her partner had been sent a Notice to Quit on 17 January 2014 and possession of the property was granted by the Courts to the Council;
 - (h) on the evidence available, the Panel was of the opinion that the applicant and her husband were able to afford the rent on their previously private rented property;
 - (i) for the reasons set out above, the Panel found the applicant and her husband's persistent refusal to pay the rent on the Council's non-secured property was a deliberate omission, as a consequence of which a possession order was made which led them to cease occupying their Council rented property;
 - (j) the Panel was of the opinion that the property would have been reasonable for the applicant and her husband and their son to occupy as the applicant's husband was working;
 - (k) it was clear that the property would have been available for the applicant, her husband and their son had the rent been paid;
 - (l) for the reasons set out above, the Panel considered that the applicant was intentionally homeless.
- (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.
- (3) That provided the applicant complies with the terms of her licence at Norway House, the Council's Homeless Persons Hostel, the Council would continue to provide her and her family with interim accommodation for a period of six weeks (until 11.00am on Monday 17 November 2014) in order to allow her reasonable opportunity to secure alternative accommodation.
- (4) That the officers, with the applicant's consent, refer the applicant to Children and Families Services to seek their assistance in helping her find alternative

accommodation and that officers continue to offer housing advice and assistance to the applicant.

CHAIRMAN