

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Housing Appeals and Review Panel    **Date:** Monday, 9 March 2015

**Place:** Committee Room 1, Civic Offices, High Street, Epping    **Time:** 2.30 - 3.55 pm

**Members Present:** Councillors J Lea (Chairman), L Mead, A Mitchell MBE and G Shiell

**Other Councillors:**

**Apologies:** B Rolfe

**Officers Present:** R Wilson (Assistant Director (Housing Operations)), A Hendry (Democratic Services Officer), J Hunt (Assistant Housing Options Manager (Homelessness)) and P Black (Environmental Health Officer)

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### **16. Chairmanship of the Meeting**

In the absence of the Chairman, Councillor Lea, the Vice Chairman chaired the meeting.

### **17. MINUTES**

#### **RESOLVED:**

That the minutes of the Panel held on 3 November 2014 be taken as read and signed by the Chairman as a correct record.

### **18. SUBSTITUTE MEMBERS**

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

### **19. DECLARATIONS OF INTEREST**

There were no declarations of interest made by members of the Panel in pursuance of the code of Members Conduct.

### **20. 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:

<b>Agenda Item Number</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
6	Application No. HS/RW/MB/1//2015	1

## **21. Application HS/RW/MB/1/2015**

### **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 and her son attended the meeting to present their case.

Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case. He was accompanied by Ms P Black, Environmental Health 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 asked everyone present to introduce themselves 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) Copy of the Tenancy Agreement between Genesis Housing Association and the applicant;
  - (ii) Copy of the Notice of eviction, dated 1 July 2014;
  - (iii) Letter from Pryor Developments to EFDC Assistant Housing Options Manager, dated 2 December 2014;
  - (iv) Email from Genesis Housing Association to EFDC Assistant Housing Options Manager, dated 10 September 2014;
  - (v) Email from the Environmental Health Officer to the Assistant Housing Options Manager, dated 25 September 2014, with a case summary and schedule of repair work;
  - (vi) Note of a formal interview between the applicant and officers, dated 11 December 2014;
  - (vii) Letter to the applicant, dated 5 January 2015 advising the applicant that the Council considered she had made herself homeless intentionally under section 191 of the Homelessness Act 2002.
- (d) Copies of documents submitted by the applicant, namely:

- (i) Her completed application form to the Housing Appeals and Review Panel dated 29 January 2015;
- (ii) Letter from the applicant to Housing Options asking for a review of their decision, dated 21 January 2015;
- (iii) Letter from the ECC Children and Young People with Disabilities Service to EFDC Housing Options in support of the applicant;
- (iv) Letter from the applicant's sons school head teacher, dated 26 January 2015;
- (v) Letter from the DWP dated 14 March 2014 on benefits being received;
- (vi) Educational support being given to the applicants eldest son dated October 2010 (revised October 2011);
- (vii) Letter from London Borough of Waltham Forest 'statementing' the applicant's youngest son dated 15 August 2006;
- (viii) Photocopy of medication package for the applicant.

### **Presentation of the Applicant's Case**

The Panel considered the following submission made by the applicant:

- (a) The applicant noted that her younger son had been diagnosed with Autistic Spectrum Disorder and Learning Disability.
- (b) She said that 80% of the disorder in her house was due to dampness. There were deep seated problems in the property that made them very ill (because of the damp). Her son had also suffered an accident while he was there.
- (c) She was currently on medication brought on by dealing with this situation, being made homeless, and also had problems from her childhood. This was an added lack of stability that made things more complex for her.
- (d) She also had problems in communicating with her autistic son.

### **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) When she first moved in the cottage was OK; but there had been leaks wetting the carpets etc. There were also issues with rising damp. She should have complained at that time. She hired a cleaner at first to clean the place up.
- (b) Looking at photos of the property the applicant said that it was not in good condition. They had tried to fix things such as the curtains.
- (c) She was unsure who to report the problems too. The electricity was always breaking down. She thought that the foundations were not good. The photos did not seem so bad.
- (d) She installed new blinds, with help from her eldest son, he had been to college and has some experience and so could help.
- (e) She had queried her arrears on her electricity bill with the Electricity Board, it was about £6,500 and she is presently awaiting correspondence from them as she thought she still had some credit with them.

**Questions from Members of the Panel to the Applicant**

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

- (a) The Electricity Board said that when they had read my meter that they had made a mistake.
- (b) When we moved in I called in a private cleaner and paid for it myself.
- (c) We manage at Norway House and keep it in good order, mainly because it is not damp.
- (d) I suffer from depression because of the problems I have.
- (e) I am not sure how many times I called Genesis Housing Association. They would have a record of my telephone calls such as the one time I did not have any power. I reported it as it was not my fault.
- (f) I did try and wash the mattress and the carpets, but it would have been better if we had wooden floors, better to clean. My son did bring in mud from the garden.
- (g) We lived there for three years.
- (h) I did try to clean but the dampness did not help.
- (i) Before this place I lived in Loughton for about two years.
- (j) On the damaged caused – my son accidentally threw a stone through the kitchen window.
- (k) Sometimes Genesis would come round, but we had to call them at least 5 or 6 times. When we called they did not come and do anything about it.
- (l) We did not damage the cooker. The power came and went and blew the fuse.
- (m) We have a voluntary arrangement to have my son looked after; he does stay with me as well. For instance he was away this weekend. He may have damaged some property but did not damage the cooker. He is getting better but sometimes relapses. He has his own social worker.

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

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

- (a) The Applicant has two children and receives benefits. She was homeless because she was evicted from her previous premises by her landlord Genesis Housing Association due to the condition she left that house in. The homelessness legislation required this Council to be satisfied that she had not made herself intentionally homeless.
- (b) Pryor Developments Limited owned the property and Genesis Housing Association leased the property out.

(c) Pryor Developments Limited visited the house in early 2014 and was not satisfied with the condition of the property. They noted that “there was internal damage and it was in a filthy and disgusting condition...the property had been totally abused.” Pryor Developments Limited began arrangements to bring the lease with Genesis to an end and this led in turn to Genesis evicting the applicant.

(d) There was a difference of opinion about the extent of the damage at the premises between Pryor Developments Limited and Genesis Housing Association. When the tenancy came to an end Genesis did agree to a schedule of works to repair the damage. A schedule of works was duly drawn up with the help of the Environmental Health Officer. This was after the applicant had left the property.

(e) In December 2014 the applicant was interviewed by our homeless case officer, when she said the property was damp and she could not remember how the damage occurred.

(f) The Panel noted the relevant homelessness legislation and that 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*

(g) In conclusion the Assistant Housing Options Manager (Homelessness) said that the applicant had made herself homeless by omission as she failed to keep the premises in good condition. The owner was clear that he did not wish to extend the lease because of the state of the property. If she had kept the premises clean and in good repair then she would not now be homeless. The Panel was invited to uphold the officer's decision.

#### **Questions from the Applicant on the case of the Assistant Housing Options Manager (Homelessness)**

The applicant had no questions but stated that the case she had presented clarified her position. She added that many things had led to this. Her child almost died there. She had complained to the CAB. Her son did damage one or two things like the door.

#### **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 test of the Council's responsibility was if something was done deliberately resulting in damage to the property. She did not keep the property in good clean condition. It was her responsibility.

(b) The Environmental Health Officer said that the premises had £50,000 worth of work done to it prior to the applicant moving in. Everything was new. The plaster work had been stripped back. The photos had shown some areas of damp and these had been put right. We would have accepted fair wear and tear, but more than 30 items had to be put right. She had worked closely with Genesis on this. Pryor

Development Limited was looking for this to be a long term rental, but were disappointed in the condition it was left in.

### Summing Up

Neither the applicant nor the Assistant Housing Options Manager (Homelessness) had anything to add to their cases.

### Deliberation

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 advised that she could be given the decision by noon the next day if she contacted the Democratic Services Officer by telephone. The applicant and the Assistant Housing Options Manager (Homelessness) left the meeting.

In coming to its decision the Panel focussed on:

- a) whether the applicant deliberately did or failed to do anything as a consequence of which she ceased to occupy the property;
- b) whether the property would have been available for the applicant's continued occupancy had there not been any breaches of the tenancy agreement; and
- c) it would have been reasonable for to continue to occupy the accommodation.

### 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 the applicant and by the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of officers that the applicant was homeless intentionally from the property managed by Genesis Housing Association, that the applicant and her children had occupied from 11 July 2011 to 14 July 2014 be upheld for the following reasons:

- (a) the applicant was aware that any breach of the tenancy agreement could result in the tenancy being terminated;
- (b) the owner of the house (Pryor Developments Ltd) had visited the property in early 2014 and was not satisfied with the condition of the property and as a consequence did not wish to extend the lease;
- (c) the owners of the property had stated that the applicant had breached the tenancy agreement by damaging various internal fittings and leaving the premises in a “filthy and disgusting” state during the term of her tenancy which was a deliberate act which as a consequence she ceased to occupy the accommodation;
- (d) an Environmental Health Officer from the Council inspected the property, after the applicant had vacated the house, and confirmed the damage done and produced a schedule of works to be carried out to the property;
- (e) this schedule included: redecoration, refitting a missing door, replacing a damaged internal door, replacing missing heating controls, replacing the

cooker, fixing a broken draw, replacing vinyl floor coverings and carpets, renewing a broken double glazed rear external door panel, replacing a missing curtain rail and curtains, repairing or replacing storage heating, replacing a bath panel and tap cover, removal of furniture and a thorough cleaning of the bathroom;

- (f) there was a total rent arrears of £1190.01;
- (g) because of the above the owners did not want to continue the tenancy due to the condition of the property;
- (h) in signing the tenancy agreement the applicant was contractually obliged under the terms of the agreement to “keep the interior of the premises in good and clean condition”;
- (i) for the reasons set out above, the Panel found that the applicant had failed to comply with her tenancy agreement and was aware that any breaches of her agreement could result in the tenancy being terminated;
- (j) the Panel further concluded that it would have been reasonable for the applicant and her sons to have continued to be housed at these premises if the breaches to the tenancy agreement had not occurred;
- (k) for the reasons set out above, the decision of the Panel was that the applicant was intentionally homeless.

(2) That no deficiency or irregularity has been identified in the original decision made by 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 will continue to provide her and her family with interim accommodation for a period of six weeks (until 11.00am on Monday 20 April 2015) 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’s Social Care Services to seek their assistance in helping her find alternative accommodation and that the officers continue to offer housing advice and assistance to the applicant.

**CHAIRMAN**