



# Epping Forest District Council

## **HOUSING APPEALS AND REVIEW PANEL** **Monday, 9th March, 2015**

**Place:** Committee Room 1, Civic Offices, High Street, Epping

**Time:** 2.30 pm

**Democratic Services Officer** A Hendry - Directorate of Governance (01992 564246)  
democraticservices@eppingforestdc.gov.uk

Members:

Councillors B Rolfe (Chairman), Mrs J Lea (Vice-Chairman), L Mead, A Mitchell MBE and Ms G Shiel

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**1. APOLOGIES FOR ABSENCE**

**2. MINUTES (Pages 3 - 12)**

To agree the minutes of the meetings of the Panel held on 3 November 2014.

**3. SUBSTITUTE MEMBERS**

(Director of Governance) To report the attendance of any substitute members for the meeting.

**4. DECLARATIONS OF INTEREST**

To declare interests in any item on the agenda.

**5. EXCLUSION OF PUBLIC AND PRESS**

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

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

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

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

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

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

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

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

**6. APPLICATION HS/RW/MB/1/2015 (Pages 13 - 90)**

To consider the attached restricted report and appendices.

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Housing Appeals and Review Panel    **Date:** Monday, 3 November 2014

**Place:** Committee Room 1, Civic Offices, High Street, Epping    **Time:** 3.20 - 4.55 pm

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

**Other Councillors:** Councillors

**Apologies:**

**Officers Present:** R Wilson (Assistant Director (Housing Operations)), J Hunt (Assistant Housing Options Manager (Homelessness)), S J Smith (Hostel Manager) and A Hendry (Democratic Services Officer)

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### 10. MINUTES

#### RESOLVED:

That the minutes of the meeting of the Panel held on 1 September 2014 be taken as read and signed by the Chairman as a correct record.

### 11. SUBSTITUTE MEMBERS

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

### 12. DECLARATIONS OF INTEREST

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

### 13. 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/7//2014	1

**14. Application HS/RW/MB/7/2014****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.

Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case. He was accompanied by Ms Sarah Smith, Hostel Manager. 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) Copy of the licence agreements signed by the applicant;
  - (ii) Warning letter issued on 7 April 2014 to the applicant;
  - (iii) Warning letter issued on 25 April 2014 to the applicant;
  - (iv) Warning letter issued on 28 April 2014 to the applicant;
  - (v) Warning letter served on 7 May 2014 to the applicant;
  - (vi) Another warning letter issued on 7 May 2014 to the applicant;
  - (vii) A further letter dated 18 June 2014 issued to the applicant;
  - (viii) A letter asking the applicant to meet officers to discuss the situation, dated 20 June 2014;
  - (ix) Letter of notice to quit dated 29 July 2014;
  - (x) Notes of an interview between the applicant and officers dated 7 September 2014;
  - (xi) Letter dated 15 August 2014 advising the applicant that the Council's duty to accommodate her had been discharged.
- (d) Copies of document submitted by the applicant, namely:
  - (i) Her completed application form to the Housing Appeals and Review Panel dated 26 August 2014;
  - (ii) Statement in support of the applicant dated 5 August 2014;
  - (iii) Statement in support of the applicant dated 29 July 2014;
  - (iv) Statement in support of the applicant, undated and unsigned;
  - (v) Full statement by the applicant, undated;
  - (vi) Statement in support, undated.

- (e) Late papers sent in by the applicants solicitor, namely:
  - (i) Statement of events by resident of hostel, dated 28 July 2014;
  - (ii) Statement of events by resident of hostel, dated 26 July 2014;
  - (iii) Statement of events by resident of hostel, dated 26 July 2014;
  - (iv) Statement of event by the applicant, dated 26 July 2014;
  - (v) Statement of event by resident of hostel, dated 26 July 2014;
  - (vi) Statement of events by resident of hostel, dated 28 July 2014;
  - (vii) Statement of events by resident of hostel, dated 26 July 2014.
- (f) Papers from the applicant's solicitor tabled on the day of the meeting, namely:
  - (i) Submission on behalf of the applicant by her solicitor dated 3 November 2014;
  - (ii) E-mailed statement by the applicant sent to her solicitor dated 15 October 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 asked to leave her mother's home and along with her 3 year old son and was accommodated in the Council's homeless persons hostel and had occupied two different rooms in her time there. Because of this she had signed two licence agreements, one for each room.
- (c) The applicant was aware that any breach of the Hostel's licence conditions could result in the licence being terminated.
- (d) The applicant had been entitled to Housing Benefit over this period to assist her in paying the rent.
- (e) It was noted that the applicant had breached the license agreement on a number of occasions. The first occasion occurred on 4 April 2014 when a visitor stayed overnight which was not permitted under her licence agreement.
- (f) The second time occurred on 25 April 2014 for causing a noise nuisance to other residents and again for having visitors stay after 10.30pm.
- (g) Further complaints about noise meant that the applicant's licence had been breached a third time and when challenged about it she used unreasonable language about another resident. The applicant was issued with a warning letter on 28 April 2014.
- (h) Other breaches of the applicant's licence had resulted from her being absent from the hostel without informing the Hostel Management Team and again allowing a visitor to stay after 10.30pm and a fourth warning letter was issued on 7 May 2014.
- (i) A fifth warning letter was issued on 7 May 2014 as she had been verbally abusive to a member of staff and had been absent for five nights without informing the Hostel Management Team.
- (j) A further final letter dated 18 June 2014 was issued for further breaches of her licence. At a subsequent meeting with the Hostel Manager she was reminded for

the need for her to comply with the licence so that she could keep her accommodation.

(k) On 29 July 2014 the applicant was given notice because she threatened another resident and was verbally abusive to them. The applicant was subsequently interviewed by the Hostel Manager to give her the opportunity to comment. The applicant had said that the noise from her child was hard to control, the visitor was insistent about visiting her, and that the staff had not been supportive towards her, she could not get a lift back to Norway House which caused her to be absent and that she was not aware of the need to stay at Norway House or to ring the staff when she was away. The applicant also apologised for swearing at staff and said that she had not threaten the other resident.

(l) The Assistant Housing Options Manager (Homelessness) noted that the reason the hostel had all those rules was that it accommodated 46 households, all living in one place. The Council had a duty to ensure a reasonable standard of behaviour, such as not having strangers staying overnight in the hostel. They have a duty to check that a resident was actually homeless and not living elsewhere. These rules were for the comfort and wellbeing of the residents. The applicant had repeatedly breached her terms of licence.

(m) The applicant was issued with a fourth warning letter on 7 May 2014 that also emphasised the rules she was obliged to follow as part of her licence agreement.

(n) A notice of termination was issued on 29 July 2014, after she had threatened another resident. This altercation had started off as an argument about bread.

(o) In deciding if the applicant had made herself intentionally homeless, council officers interviewed her to enable her to give her side. She gave her reasons for the infringements, apologised for swearing at staff and denied that she had threatened the resident. However, officers concluded that their duty to accommodate the applicant had been discharged as she was considered to have made herself homeless intentionally and wrote to her accordingly.

(p) 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*

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).*

(q) In responding to the applicants solicitor's submission, the Assistant Housing Options Manager (Homelessness) noted that:

- (i) The Homeless persons hostel was not a bed and breakfast establishment, but a local authority hostel.

- (ii) Staff at the hostel were not made aware of complaints made and the issues between the applicant and another resident.
  - (iii) However the altercation may have started, it was the applicant who had shouted at the other resident and threatened her, which was breach of the licence conditions.
  - (iv) As for mediation, the information that the staff received was that it had all come from the applicant and that the other resident had not responded. Mediation was difficult when someone had been threatened. All the relevant people had been interviewed at the time.
  - (v) Officers had considered whether the accommodation was affordable for the applicant to occupy and had referred to this in their letter to her dated 15 August 2014.
  - (vi) Staff were aware of the applicant's depression and anger issues and had tried to support her. But there came a point when they had to act.
- (r) In response to the points made in the applicant's statement, the Assistant Housing Options Manager (Homelessness) noted that:
- (i) The applicant had made a serious allegation about child molestation and they did make enquiries about this to the police who confirmed that they were untrue.
  - (ii) As for her allegation of one rule for one and one rule for another, the applicant would not know what they did to other residents as it was all confidential.
  - (iii) Staff had to maintain the rules and she was therefore issued with the notice.
- (s) The Hostel Manager added that the applicant had verbally abused her colleague and they agreed that she would in future deal with just her and not her colleague. She had helped the applicant fill in her benefit form on 14 May and on 19 May had asked her if she had submitted the form. She had not. On 20 May she had checked again and the form had still not been sent. At various times over the next few months the hostel manager had helped out the applicant for various things and had also tried to mediate between her and other residents, but this process broke down.
- (t) In conclusion the Assistant Housing Options Manager (Homelessness) said that the applicant had been warned several times and had also moved rooms to help her. But she had failed to comply with her licence by staying out overnight, playing loud music, swearing at staff and threatening another resident. The Panel was invited to uphold the officers decision.

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

The applicant had no questions at this time.

**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 hostel had only served notice three times in the last 12 months, although warning letters have been served.

- (b) If a resident has to stay away overnight in an emergency situation then they can always ring the out of hours number to inform us and our staff would be notified. It was important that we know their movements because of fire safety regulations, but staff were happy to accommodate this.
- (c) The applicant was accommodated in the main building and not in one of the chalets.
- (d) The applicant was originally housed on the top floor, but there were complaints so she was moved to the ground floor at the opposite end of the building. Her attention was again drawn to the licence conditions at this time.
- (e) The warning letters were put through her door, but staff were always on hand to talk to her about them.

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

The Panel considered the following submission made by the applicant:

- (a) The applicant said that when she had moved into her new room her tenancy conditions were read to her. When she had first signed she had not read the licence.
- (b) When she moved downstairs she made an effort to fit in and tried to be like a family. The resident she had the altercation with was not what she seemed to be.
- (c) Councillor Rolfe noted that there had been trouble before this episode with the other residents and warning letters had been issued. The applicant replied these complaints did not make sense as the people were on the opposite side to her. She could understand the people below her complaining as her child tended to "stomp around". CCTV would show that it was not her child in the corridors. The officer she normally dealt with did not want to hear her side, he patronised her. One night someone had complained about her music playing at 4.30 but she was not there. A lot of little things caused her to turn my music up full blast.
- (d) Councillor Rolfe asked why she stayed out all night without telling anyone? The applicant replied that she did not read her licence initially when she received it, her "head was not in the right place". Councillor Rolfe noted that she had been told about this before. The applicant said that she was not in a good place at that time. When she moved downstairs she made friends there. Before this hearing no one had ever asked her side of the story.

### **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) and the Hostel Manager:

- (a) The applicant said that when she received a (warning) letter she would go to Sarah or Mark to explain it to her.
- (b) I was (verbally) told the rules and I did try to sort myself out, but where it went wrong was with that situation with the other resident.



(c) I was depressed in the room upstairs but when I went downstairs I did try and made friends where I could.

(d) In the end I bit my tongue and apologised to this officer. We had a conversation about it and he managed to get over it. He made me feel small, we are too different.

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

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

(a) I did tell an officer at one point about my problems but never wrote anything down. No-one listened to my side of the story, I only got warning letters.

(b) I went to my GP about my mental health problems and was put on medication. I have been on medication for some time; before I moved into the hostel.

(c) When I moved in I signed the licence agreement but it was not gone through with me. Sarah did go through it with me later.

(d) I did try to contact the hostel when I was not going back at night but the out of hours number is ridiculous.

(e) I am not on medication now so no doctor's report. They will be sending me to a mental health team.

(f) I did not approach that resident in front of my son, I approached her outside and I did not 'fly off the handle' at her.

(g) When I was absent I had gone to visit my dad but did not come back to the hostel. I did not want to go back there. I spoke to Sarah later about this. She had made arrangements for me to move to another room on my return.

(h) The doctor's have given me creams/lotions for my son's skin problems and because of this I did not want to share my bathroom with someone else.

(i) I understand that this all hinges on my interpretation of the licence agreement. But I feel I have been set up by these people. I could have been in Hemnall House by now.

### **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 and the Assistant Housing Options Manager (Homelessness) then left the meeting.

In coming to its decision, the Panel focussed on:

a) reaching a view on the applicant's breach of the Norway House regulations;

- b) whether the applicant knew, or should have known, that she was in breach of the regulations;
- c) whether the applicant deliberately did or failed to do anything as a consequence of which she ceased to occupy the property; and
- d) whether the property would have been available for the applicant's continued occupancy had there not been any breaches of the licence.

**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 Epping Forest District Council homeless persons hostel at Norway House that the applicant and her child occupied from 31 March 2014 to 11 August 2014 be upheld for the following reasons:

- (a) the applicant was aware that any breach of the Norway House licence conditions could result in the licence being terminated;
- (b) the applicant had moved rooms in Norway House and therefore had signed and agreed to the licence agreement on two occasions;
- (c) the applicant had been entitled to Housing Benefit over this period to assist her in paying the rent;
- (d) the applicant had breached the licence agreement on a number of occasions. The first occasion occurred on 4 April 2014 when a visitor stayed over night which was not permitted under her licence agreement;
- (e) the second time occurred on 25 April 2014 for causing a noise nuisance to other residents and again for having visitors stay after 10.30pm;
- (f) further complaints about noise meant that the applicant's licence had been breached a third time and when challenged about it used unreasonable language about another resident. The applicant was issued with a warning letter on 28 April 2014;
- (g) other breaches of the applicant's licence had resulted from her being absent from the hostel without informing the Hostel Management Team and again allowing a visitor to stay after 10.30pm and a fourth warning letter was issued on 7 May 2014;
- (h) a fifth warning letter was issued on 7 May 2014 as she had been verbally abusive to a member of staff and had been absent for five nights without informing the Hostel Management Team;
- (i) a final letter dated 18 June 2014 was issued for further breaches of her licence. At a subsequent meeting she was reminded for the need for her to comply with the licence so that she could keep her accommodation;

- (j) on 29 July 2014 the applicant was given notice because she threatened another resident and was verbally abusive to them. The applicant was subsequently interviewed to give her the opportunity to comment;
  - (k) on the evidence available, the Panel concluded that the applicant should have been aware of the consequences of her continued breach of the regulations at Norway House;
  - (l) for the reasons set out above, the Panel found that the applicant had failed to comply with her licence and was aware that any breaches of her licence could result in the licence being terminated;
  - (m) the Panel further concluded that it would have been reasonable for the applicant and her son to have continued to be housed in Norway House if the breaches to the licence had ceased;
  - (n) 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 the Council officers or the manner in which it was made.
- (3) 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 the officers continue to offer housing advice and assistance to the applicant.

**15. Progress Report on Previous Housing Appeals/Applications**

**RESOLVED:**

The Panel considered and noted the progress report on recent appeals/applications.

**CHAIRMAN**

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of the Local Government Act 1972.

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