



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL **Wednesday, 30th September, 2015**

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

Time: 2.30 pm

Democratic Services Officer J Leither - Directorate of Governance (01992 564756)
democraticservices@eppingforestdc.gov.uk

Members:

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

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS

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

3. MINUTES (Pages 3 - 10)

To agree the minutes of the meeting of the Panel held on 2 September 2015.

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):

Agenda Item No	Subject	Exempt Information Paragraph Number
6	Application No. HS/RW/MB/05/2015	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 NO. HS/RW/MB/05/2015 (Pages 11 - 44)

To consider the attached restricted report and appendices.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Wednesday, 2 September 2015

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 3.30 pm

Members Present: Councillors B Rolfe (Chairman), A Mitchell MBE (Vice-Chairman), G Shiell and T Thomas

Other Councillors: Councillors

Apologies: J Lea and L Mead

Officers Present: R Wilson (Assistant Director (Housing Operations)), J Hunt (Assistant Housing Options Manager (Homelessness)), A Hendry (Senior Democratic Services Officer) and J Leither (Democratic Services Officer)

1. MINUTES

RESOLVED:

That the minutes of the Panel held 9 March 2015 be taken as read and signed by the Chairman as a correct record.

2. SUBSTITUTE MEMBERS

The Panel was advised that Councillor Thomas was substituting for Councillor Mead.

3. DECLARATIONS OF INTEREST

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

4. 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
6	Application No. HS/RW/MB/04//2015	1

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Progress on previous
Housing Appeals/
Applications

1

5. Application No. HS/RW/MB/04/2015**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 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 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 Assured Shorthold Tenancy Agreement between Ideal Property Consultants Limited and the applicant;
 - (ii) A Notice Requiring Possession, and Order for Possession and a Notice of Eviction;
 - (iii) Notice from the letting agent advising the Council that the applicant had been served notice due to rent arrears;
 - (iv) Note of a formal interview between applicant and officers dated 2 March 2015;
 - (v) A note of the applicant's earnings from July 2014 to December 2014;
 - (vi) Letter to the applicant dated 1 July 2015 advising the applicant that the Council considered he had made himself homeless intentionally under section 191 under the Homelessness Act 2002;
- (d) Copies of documents submitted by the applicant, namely:
 - (i) The applicant's completed application to the Housing Appeals and Review Panel dated 20 July 2015;
 - (ii) A statement by the applicant dated 11 August 2015 stating reasons he could not pay the rent and that any wages earned had been shared with a work partner;
 - (iii) A statement from this work partner confirming days worked and amounts received;
 - (iv) A copy of the working partner's passport;

- (v) Various receipts from the Council for paperwork received (i.e. wage slips, passport, and bank statements).

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's household consists of his wife and three children. He held an assured shorthold tenancy from November 2013 to March 2015.

(b) The letting Agent advised the Council (on 18 March 2015) that notice was served on the applicant due to "large rent arrears", that was £3,575 at the end of the tenancy. The Homelessness Legislation required this Council to be satisfied that he had not made himself intentionally homeless.

(c) The applicant was a self employed tiler, working for different companies with variable earnings each month. He was issued with a Notice Requiring Possession in September 2014 when he owed £1,750 in rent. At a court hearing on 18 November 2014 the judge granted possession but suspended its execution provided the applicant paid the rent plus £75.00 per month. He met the terms of this order in November 2014 but thereafter paid no further rent, leading the letting agent to apply for his eviction from the property.

(d) The applicant was interviewed by his Homelessness Case Officer and asked why he did not pay the rent. He said he failed to pay the full rent at the end of 2014 because he was not earning enough money due to a decline in the amount of work available.

(e) The Panel noted the earnings of the applicant from July to December 2014.

(f) The Homelessness Officer decided that the applicant had made himself intentionally homeless and he was informed of this. He then requested a review of this decision by this Panel.

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 addressing the supporting evidence provided by the applicant the Assistant Housing Options Manager (Homelessness) noted that the applicant had stated that he was employing another man and was sharing his income with him; he had supplied a statement from this person and copies of receipts. However this new information had appeared late and had not been provided by the applicant to officers at the time of his interview and when he had tried to get help with Housing Benefit. However, this new information was not sufficient in itself. He would have to provide

detailed accounts, showing how much he had paid and any paperwork he had submitted to HM Revenue and Customs etc.

(h) In conclusion the Assistant Housing Options Manager (Homelessness) said that the applicant had made himself homeless by wilfully and persistent refusal to pay his rent. The flat would have continued to be available to him for continued occupation had he paid the rent, in full and on time.

(i) He had been ordered to pay the rent plus £75 per month by court order in November 2014; but he failed to pay his rent and keep to this court order in December 2014 and consequently became homeless. As a self employed tiler he was used to fluctuating income. It would not be uncommon for his income to be inconsistent and for him to adjust his expenditure accordingly. 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 for the officer.

Questions from the 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 applicant had incurred no problems at Norway House; he had paid his rent on time and was up to date with it.

Presentation of the Applicant's Case

The Panel considered the following submission made by the applicant.

(a) The applicant noted that £1250 had been taken as a deposit for the court.

(b) The Council had asked him about Child Benefits. He did not have it then, so was not important.

(c) As he was self employed he could not prove how much money he earned. But he was not intentionally homeless.

(d) The list of money paid was not his list but was supplied by the Tenancy Agency. He had paid his money but had lost his receipts. He did not have any proof, just his bank statements. He paid money but could not prove it.

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) I did not know what I needed to provide to the officers when I applied for Housing Benefit. Later I spoke to the CAB and they advised me on what I needed to show.

(b) I always paid my worker in cash, so it did not show in my bank statements.

- (c) I am registered as self employed.
- (d) I have not provided accounts to HMRC. The company I work for pays the tax. I only have my bank account.
- (e) I have not told HMRC about the co-worker I pay.
- (f) I do not have an accountant.
- (g) Companies do not want a lot of names on their books. This way they have only one invoice for one man, who then pays another.
- (h) No I did not make any tax deductions for this worker.

Questions from Members of the Panel to the Applicant

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

- (a) The co-worker would get less of a pension if he worked 'on the books'.
- (b) I did this to help an old man. The CAB later said I must declare him.
- (c) I paid money to the court not by cash but by bank transfer.
- (d) It was an automatic bank transfer.
- (e) This co-worker did not want to be mentioned at my first interview, he did not want to jeopardise his pension from Lithuania. Only later did the CAB advise me to tell you about him.
- (f) He looks after himself; has his own room etc.
- (g) No, I was not self employed in my home country.
- (h) I am registered as self-employed here.
- (i) At the time I had applied for Housing Benefit I was not in receipt of Child Benefit.
- (j) The table of payment on page 40 of the agenda was not incorrect, just that not all the information was there.

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 he could be given the decision by noon the next day if he 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 he ceased to occupy the property;
- b) whether the property would have been available for the applicant's continued occupancy had there not been any rent arrears; and
- c) it would have been reasonable for them 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 that the applicant, his wife and children occupied from 22 November 2013 to 10 March 2015 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 Letting Agent of the house (Ideal Property Consultants) had advised the Council that notice had been served on the applicant due to "large rent arrears";
- (c) the arrears were £1,750 when notice was served and they had increased to £3,575 at the end of the tenancy;
- (d) at a court hearing in November 2014 the Judge granted possession but suspended its execution provided the applicant paid the rent plus £75.00 per month. He met the terms of this order in November 2014 but thereafter paid no further rent;
- (e) this led to the Letting Agent applying for his eviction from the property;
- (f) on being interviewed by the Homelessness Case Officer it was stated that he failed to pay the full rent at the end of 2014 because he had not been earning enough due to a decline in the amount of work available;
- (g) the applicant was aware that he had to pay his rent plus £75.00 per month to comply with a court order so that he could stay in his home. He failed to pay his rent and keep to the order in December 2014 and consequently became homeless;
- (h) as a self employed tiler he was used to fluctuating income, it would not be uncommon for his income to be inconsistent and for him to adjust his expenditure accordingly in order to meet important items such as rent;
- (i) in providing evidence about the worker he employed it was not considered to be sufficient as it did not contain any background papers such as detailed profit and loss accounts;

- (j) for the reasons set out in (a) - (i) above, the Panel found that the applicant had failed to comply with his tenancy agreement and was aware that any breaches of the agreement could result in the tenancy being terminated;
 - (k) the Panel further concluded that it would have been reasonable for the applicant and his family to have continued to be housed at these premises if the rent had continued to be paid as agreed in the tenancy agreement;
 - (l) for the reasons set out above, the decision of the Panel was that the applicant was intentionally homeless.
- (2) That no deficiency or irregularity had 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 his licence at Norway House, the Council's Homeless Persons Hostel, the Council would continue to provide him and his family with interim accommodation for a period of six weeks (until 11.00am on Tuesday 13 October 2015) in order to allow him 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 him find alternative accommodation and that the officers continue to offer housing advice and assistance to the applicant.

6. 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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