

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Monday, 7 March 2016

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 4.40 pm

Members Present: Councillors B Rolfe (Chairman), A Mitchell (Vice-Chairman), J Lea and G Shiell

Other Councillors: Councillors

Apologies:

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

22. MINUTES

RESOLVED:

That the minutes of the Panel held on 11 January 2016 be taken as read and signed by the Chairman as a correct record.

23. SUBSTITUTE MEMBERS

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

24. DECLARATIONS OF INTEREST

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

25. 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/01/2016	1

26. Application Number: HS/RW/MB/01/2016**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 an officer from Family Solutions.

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 Manager (Homelessness), namely:
 - (i) A copy of the Assured Shorthold tenancy Agreement between the Landlord and the Applicant;
 - (ii) A notice requiring Possession and Order for Possession and a Notice of Eviction;
 - (iii) Notice from the Landlord advising the Council that the Applicant had been served notice due to rent arrears;
 - (iv) Record of Housing Benefits paid to the Applicant;
 - (v) Note of a formal interview between the Applicant and officers dated 13 August 2015 and 19 October 2015;
 - (vi) An income and expenditure statements supplied to the Council from the Applicant for when she was employed and when she was not working;
 - (vii) A letter to the Applicant dated 26 January 2016 advising the Applicant that the Council considered she had made herself homeless intentionally.
- (d) Copies of documents submitted by the Applicant, namely:
 - (i) The Applicants application letter to the Housing Appeals and Review Panel dated 29 January 2016

A further four documents were tabled at the meeting by the Applicant, namely:

- (ii) A letter from her GP, undated ;
- (iii) A letter in support of the Applicant from her Social Justice Coach, from the Department for Works and Pensions dated 18 February 2016;
- (iv) A letter from Homerton University Hospital dated 02 March 2016;
- (v) A letter from Essex County Council Family Solutions Service, undated.

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 was British and thirty nine years of age, her household consists of her two dependant children and herself. At the time she lived at the privately rented address her eldest son was living with her.

(b) She was the assured shorthold tenant of this address from 20 September 2013 until 13 August 2015.

(c) The Landlord advised this Council that notice was served on the Applicant due to 'non-payment of rent'. The arrears were £5,663.30 when she was evicted. The Homelessness legislation then required the Council be satisfied that she had not made herself intentionally homeless.

(d) The rent at that address was eligible for maximum Housing Benefit and she received Housing Benefit throughout her tenancy. The benefit varying in degree as and when she was in or out of work and later when an older member of her household, her eldest son, was considered able to contribute towards the rent. The Housing benefit was paid directly to the applicant and not to the landlord.

(e) The Applicant was interviewed by her Homelessness Assessment Officer and asked why she did not pay the rent. She said that she only had part time employment but the work was not always reliable. Her medical problems sometimes prevented her from working and she then had to claim benefits. She also admitted that she did not pass all of the Housing Benefit she received on to her landlord.

(f) The Applicant had completed affordability assessments to give examples of her income and expenditure at the time she was employed and when she was no longer working. These showed that her income was less than her expenditure and that she had debts to pay. The Housing Benefit she received was not included in these assessments.

(g) It was decided that the Applicant had made herself intentionally homeless and she was informed of this. She requested a review of the decision by this Panel.

In making homelessness decisions, this Council must have regard to the Code of Guidance, which is used by local authorities to assist with the implementation of the homelessness legislation.

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*

(h) In conclusion the Assistant Housing Options Manager (Homelessness) said that the Applicant's wilful and persistent refusal to pay her rent had made her intentionally homeless. She did not "top up" the housing benefit from her own income to ensure that the rent was fully paid. Whilst the Applicant had a number of debts to pay, her first priority was to pay the rent. The Applicant does have a health condition that may affect her ability to work but she received Housing Benefit throughout the tenancy (there were no breaks in her claim) and the amount she received varied according to the information she provided to the Housing Benefit Department and her circumstances. He noted that the property was affordable and reasonable to occupy and would have continued to be available to her and her family for continued occupation had she paid the rent.

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

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

(a) Because it took time to process your application for Housing Benefit you were probably first paid in January 2014, with the payment backdated to September 2013. It looked like you had paid the first two or three months rent in advance.

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) We have some background information on her medical conditions via some letters and forms on file and she had completed a self assessment medical form.

(b) It seems that some of the figures on the self assessment forms were missing such as the employment support allowance figures or the Housing Benefit received.

(c) Housing Benefits are paid fortnightly and in arrears. He was not aware of any delays in their payment.

Presentation of the Applicant's Case

The Panel considered the following submission made by the Applicant:

(a) She had to find a place for herself when her step father passed away. She was working then and had asked a friend to act as a guarantor to enable her to put down a deposit. Towards the end of the year she approached Epping Forest District Council for Housing Benefit.

(b) She did not tell the Landlord that she was on Housing Benefit as she was afraid that he would not take her on.

(c) Although her son was living with her, he was at college and was unable to financially contribute to the rent. The college had confirmed this.

- (d) As her mother had Dementia her eldest son went to live with her.
- (e) She did not use the Housing Benefit money for herself. She was paying off her debts and occasionally got jobs to help. But when she got a job her Housing Benefit was cut, so she had to get loans to feed her children.
- (f) She is still paying off the loans now and was only just surviving and she was still paying off the Landlord.
- (g) She was sorry for this and did not really know how she got here. She was just begging the Panel to let her keep a roof over her head.

Questions from the Assistant Housing manager (Homelessness) to the Applicant

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

- (a) When my son started working he moved in with my mother to look after her.
- (b) My friend who acted as a guarantor was not able to assist me or afford £1200 to pay the rent.
- (c) My loans were to top up the rent, pay bills and to feed the children.

Questions from Members of the Panel to the Applicant

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

- (a) My son left to look after my mother this was also closer to his place of work. He got the job after he moved in with her and it made sense for him to stay there.
- (b) I kept him financially when he moved in with my mother until he got a job. I did not encourage him to sign on.
- (c) When I moved in I had no washing machine or fridge. I bought these towards the end of the tenancy.
- (d) Eventually I had to put in pre payment meters for electricity and gas. N Power put in the meters as I was so much in debt at the time.
- (e) I am still paying off the Pay Day loans at a very high rate of interest. I still have about £2000 outstanding. I hope to have paid it off by late next year. I am paying £35 per week for one of the loans.
- (f) I am paying back £10 to £15 a month on my Barclaycard. Other debt collectors come knocking on my door.
- (g) I have been to the Citizen Advice Bureau (CAB) and am also being advised by someone from the Job Agency.
- (h) Family Solutions have only been involved for about 6 months and finance was not their speciality. Other agencies such as the CAB should advise about finance.

Other Questions asked

The Assistant Director (Housing Operations) asked the Assistant Housing Options Manager (Homelessness) that knowing of the financial difficulties of the Applicant, you said that her accommodation was affordable and reasonable. Was a proper Affordability Assessment undertaken, and were you satisfied that this was taken into consideration?

The Assistant Housing Options Manager (Homelessness) replied that the Applicant completed self assessment Affordability Assessments and these were included in the report. But, as pointed out, the Housing Benefit payments were missing and also when the Applicant was not working it still included travel to work costs. So the assessments were not always reliable. We had to weigh up her financial problems with her not paying the rent. Housing Benefit was dependent on circumstances, if they get more work the benefits goes down. When we were told that her child had finished college a deduction was applied, so if he was claiming benefits he could help pay the rent.

Unfortunately she did not pass on her Housing Benefit to her Landlord. And we did conclude that her accommodation was affordable if the Housing Benefit was paid over to her Landlord.

Summing Up

The Applicant:

In conclusion the Applicant stated that there was never a month that she did not pay some of the rent owed; she did not use that money for herself. She never earned over £1200 when she was working. She just did what she had to do to survive. And would just like to say I need your help.

The Assistant Housing Manager (Homelessness):

The Assistant Housing Manager (Homelessness) noted that the applicant had tried to pay something every month but at the end of the tenancy there were some gaps and a series of payments were not passed on. Also, when the eldest son moved out, they restricted the Applicants Housing Benefit as they had assessed she needed less money because of this.

Deliberation

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the Applicant and Assistant Housing Options Manager (Homelessness) would be advised of the outcome. The Applicant was advised that she could be given the decision by 11am the next day if she contacted the Democratic Services Officer by telephone. The Applicant and the Assistant Housing Manager (Homelessness) left the meeting.

In coming to its decision, the Panel focused 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;
- (c) whether the property would have been available for the applicant's continued

occupancy had there not been any arrears;

(d) reaching a view on the breach of the tenancy agreement; and

(e) whether the Applicant knew, or should have known, that she was in breach of these conditions.

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 and her Children occupied from 20 September 2013 to 13 August 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 Landlord of the property had advised the Council that notice had been served on the Applicant due to "large rent arrears";
- (c) the arrears were £3,345 when notice was served and they had increased to £5,663.30 by the end of the tenancy;
- (d) that at the start of the tenancy she had received full housing benefit;
- (e) the Housing benefit was paid directly to the Applicant and not to the Landlord;
- (f) at her interview with a Homelessness Assessment Officer the Applicant said that she had part time employment but work was not always reliable and that her medical condition sometimes prevented her from working;
- (g) the Applicant admitted that she did not pass all of the Housing Benefit she received onto her landlord;
- (h) The self assessment forms filled out by the applicant had omissions and were therefore considered to be only partially accurate;
- (i) Her eldest child was old enough to work and contribute towards the rent;
- (j) That whilst it was recognized that she had a number of debts to pay, her first priority was to pay her rent;
- (k) for the reasons set out in (a) - (j), the Panel found that the Applicant had failed to comply with her tenancy agreement and was aware that any breaches of the agreement could result in the tenancy being terminated;
- (l) the Panel further concluded that it would have been reasonable for the Applicant and her family to have continued to be housed at that property if the rent had continued to be paid;

(m) 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 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 notice period of six weeks (until 11.00am on Monday 18 April 2016) 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 officers continue to offer housing advice and assistance to the Applicant.

CHAIRMAN