

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 19 March 2009

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 4.50 pm

Members Present: Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), Ms J Hedges, B Rolfe and Mrs J H Whitehouse

Other Councillors:

Apologies: J Wyatt

Officers Present: A Hall (Director of Housing) and G Lunnun (Assistant Director Democratic Services)

29. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 18 December 2008 be taken as read and signed by the Chairman as a correct record.

30. SUBSTITUTE MEMBERS

It was noted that Councillor Ms J Hedges was substituting for Councillor J Wyatt.

31. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Conduct for Members.

32. 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 item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs 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 No	Subject	Exempt Information Paragraph Number
6	Application No. 1/2009	1 and 2

33. APPLICATION NO. 1/2009

The Panel considered a request for a review of a decision made by officers under delegated authority regarding the applicant's homelessness application. The applicant attended the meeting to present her case accompanied by her father, her personal adviser from the Leaving and After Care Service and another family member. Mr J Hunt (Assistant Housing Options Manager (Homelessness)) attended the meeting to present his case. Mr A Hall (Director of Housing) attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the application. The Chairman introduced the members of the Panel and officers present to the applicant and outlined the procedure to be followed in order to ensure that proper consideration was given to the application.

The Panel had before them the following documents which were taken into consideration:

- (a) copies of documents submitted by the applicant namely, the application to the Housing Appeals and Review Panel dated 10 February 2009;
- (b) a summary of the case including the facts of the case and an outline of the homelessness legislation;
- (c) the case of the Assistant Housing Options Manager (Homelessness);
- (d) copies of documents submitted by the Assistant Housing Options Manager (Homelessness) namely:
 - (i) notice seeking possession of a property let to the applicant by the NACRO Housing Association;
 - (ii) chronology of events prepared by NACRO Housing Association in relation to the applicant's period of tenancy with the Housing Association;
 - (iii) letter dated 22 January 2009 from the NACRO Team Manager to the Assistant Housing Options Manager (Homelessness);
 - (iv) letter dated 3 February 2009 from the Team Manager Leaving and After Care Service to the Council;
 - (v) letter dated 18 November 2008 from the applicant to the Leaving and After Care Service;
 - (vi) interview report dated 5 December 2008 by a Housing Officer on an interview with the applicant;
 - (vii) interview report dated 29 September 2008 by a Housing Officer on an interview with the applicant;
 - (viii) letter dated 30 January 2009 from the Assistant Housing Options Manager (Homelessness) to the applicant.

The Panel considered the following submissions in support of the applicant's case:

- (a) the applicant had been settled when living with her sister in foster care and had not wanted to leave when she had reached the age of 18; the applicant from the

age of 16 had been made aware of the need to leave her foster home when reaching the age of 18 and this had worried her and had a detrimental effect on her studying;

(b) on being required to leave foster care, the applicant had been placed in a NACRO Housing Association managed property;

(c) she had been placed in a NACRO Housing Association managed property in order to receive continued support as a vulnerable person but this had not been provided by either NACRO or the Essex County Council Leaving and After Care Service;

(d) the NACRO Housing Association managed property in which the applicant had been accommodated had also been occupied by two young men and they were often joined in the property by three other young men from an adjoining NACRO Housing Association managed property; whilst at the NACRO Housing Association managed property the applicant had become close to one of the young men and had been introduced to heroin and excessive drinking of alcohol; she had become depressed and had lost a lot of weight;

(e) the lack of support and other issues experienced had resulted in the applicant failing to address the payment of her rent and the processing of her applications for benefit;

(f) the applicant had made formal complaints about the lack of support she had received from NACRO Housing Association and the Leaving and After Care Service.

The applicant and those supporting her answered the following questions of the Assistant Housing Options Manager (Homelessness) and the Panel:-

(a) (To the applicant) You were aware that you would have to leave foster care when aged 18; why did you not attempt to make the NACRO Housing Association placement work? – I was a young lady taken away from a family where I had received close support and placed in a property many miles away where I received very little support; (the applicant's father stated that his daughter had been taken away from her mother who could not cope at the time; the applicant had suffered a difficult life for a long time but had chosen not to live with him; she had lived with her sister in foster care for seven years and she had felt abandoned when moved from the foster home; he stated that his daughter should have received more support from NACRO Housing Association and the Leaving and After Care Service; he advised that he had recently been asked for help by his daughter as she had reached a desperate situation);

(b) How long did you live with your foster mother? – Five years from the age of 13 to the age of 18;

(c) (To the applicant's Personal Adviser from the Leaving and After Care Service) - Do you consider it was appropriate for the applicant to be placed in a property with two young men? – I was not the applicant's adviser at the time; the Service has a duty to provide suitable accommodation and the applicant wanted to stay in the area; NACRO Housing Association offer supported housing;

(d) (To the applicant's Personal Adviser from the Leaving and After Care Service) – Does your Service have criteria for placing care leavers? – Every situation is different and account has to be taken of the options available at the time; supported housing is often successful, preparing a person for moving subsequently to permanent accommodation of their own;

(e) (To the applicant's Personal Adviser from the Leaving and After Care Service) – Do you not have guidelines under which you are required to work? - It was considered that the applicant had been placed in suitable accommodation; the applicant had made a formal complaint to the Leaving and After Care Service but after investigation it had been determined that the Service had not failed in their duty to provide the applicant with the correct support and advice to assist her to move into independent living; it had also been concluded that the Leaving and After Care team workers had tried to engage with the applicant and offer practical advice and failed to respond to the approaches made; assistance about her rent arrears but the applicant had

(f) (To the applicant's Personal Adviser from the Leaving and After Care Service) – If suitable accommodation could not have been found for the applicant could she have stayed with her foster carer beyond the age of 18? - The applicant's foster carer could have continued to accommodate the applicant as a supported lodgings provider but not as a foster carer; she would have received a lower rate of pay for this status;

(g) (To the applicant's Personal Adviser from the Leaving and After Care Service) – What is the timescale for finding accommodation for someone in care when they reach the age of 18? – It is different in each case but they have to leave the foster home when reaching the age of 18 unless the carer agrees to become a supported lodgings provider (the applicant stated that when she had reached the age of 17 she had been offered a move to Chelmsford but as this had arisen during the time when she had been taking her A levels, she had decided not to make that move);

(h) (To the applicant) What was your first impression of the NACRO Housing Association managed property? – I was given the impression that if I did not accept it I would receive no further help; it was only after I started living at the property that I was advised there had been other options available;

(i) (To the applicant) Can you expand on the education you received? – I obtained GCSEs and started to take my AS examinations; at that time my studying was affected by my housing situation and I did not go on to take my A2s;

(j) (To the applicant) Did you understand the letters which were sent to you? – I was more than capable of understanding the letters but I was not in the right frame of mind to do so;

(k) (To the applicant) You have said today that you did not want to go to the NACRO Housing Association managed property but in your application to NACRO you stated that you wished to travel to university in London to continue your studies and that accommodation close to a main line train station into London would be suitable; can you explain this discrepancy? – At the time I was optimistic about the situation; I had been given independence and at that time was not aware of the reality of the situation;

(l) (To the applicant) When did you drop out of education? – After taking my ASs at age 17;

(m) (To the applicant) But you were not moved from your foster home until you were aged 18; can you explain further? – I finished my ASs in the summer then turned 18 and was moved from my foster home in the following January; I needed to await my examination results and had not intended to drop out of education;

(n) (To the applicant) You appear to be an intelligent and responsible young lady; did you understand that you had to pay rent for the NACRO Housing Association managed property? – Yes I understood but I did not think of the consequences of not doing so?

(o) (To the applicant) There is reference to you owning a mobile telephone; did you think it was more important to pay the telephone bills rather than the rent? – My mobile phone was ‘pay as you go’ and I often had no credit to use it;

(p) (To the applicant) Where did you get the money for the alcohol and drugs which you took? – The young man who I grew close to at the NACRO Housing Association managed property received money from his father and from benefit; we did not feed ourselves properly but spent the money on drink and drugs; I accept that I should not have taken drugs or drunk excessively but it was a comfort outlet;

(q) (To the applicant) Why did you not attend the meetings with your support workers? – I accept that I did not attend some appointments but I did advise them that I would not be present and asked for meetings to be rescheduled; these requests are not mentioned in the paperwork from the support workers;

(r) (To the applicant) When the NACRO Housing Association support worker came to see you what did you discuss? – She would come approximately once a week to collect the rent. When I told her that I didn’t have any money she would say that I could pay the following week; I accept that I was not blameless but I received an inadequate level of support; I had been taken out of a close family environment and placed in a property where on arrival I had witnessed a young man smoking heroin;

(s) (To the applicant) An action plan was agreed with you to sort out your rent payments and benefits; why did you not pursue this plan? – I was not in the right frame of mind to address the problems; when I woke up each morning I would start drinking alcohol and taking methadone;

(t) (To the applicant) You received Job Seekers Allowance payment on 24 July 2007; can you explain why you did not pay rent after receiving that payment? – I cannot recall as that was nearly two years ago.

The Panel considered the following submissions of the Assistant Housing Options Manager (Homelessness):

(a) the applicant was seeking a review against the decision that she had made herself homeless intentionally when she had been served with notice for rent arrears on her NACRO Housing Association managed property;

(b) the applicant held a British passport, was 20 years of age; had left care when she had reached 18 years of age to move to the NACRO Housing Association managed property; the applicant had lived at the NACRO Housing Association managed property between 8 January 2007 and 14 January 2008; the property had been one of a number of properties managed by NACRO Housing Association for people requiring supported housing; the accommodation had been a three-bedroom house, enabling three tenants to occupy their own rooms and to share communal areas; the property had adjoined another NACRO Housing Association managed property; the applicant had been referred to the NACRO Housing Association managed property when she had reached 18 years of age and had been required to leave care; she had signed an assured shorthold tenancy agreement and had agreed to pay the rent for her room to NACRO Housing Association; the applicant’s rent had

consisted of an amount eligible for Housing Benefit if she was not working or on a low income; and a personal charge not covered by Housing Benefit, which she had been expected to pay directly to NACRO Housing Association; the applicant had failed to regularly pay the rent and her arrears had amounted to £2,721.72 at the end of the tenancy; the applicant had been served with notice by NACRO Housing Association for rent arrears and had vacated the property in January 2008;

(c) NACRO Housing Association had informed the Council that from the commencement of her tenancy in January 2007, the applicant had refused consistently to pay the personal charge element to the rent to them and had failed to provide the Job Centre and Housing Benefit Department with the information they required in order to process the benefit claims; the applicant had been provided with support but NACRO Housing Association had informed the Council that she had repeatedly failed to attend appointments and meetings which had made it difficult for the support workers to give assistance in resolving her rent and benefit problems; the applicant had also been offered support by the Essex County Council Leaving and After Care Team but they had advised the Council that the applicant had failed to take up the advice and assistance they had offered to her;

(d) the applicant had advised the Council that she had not wanted to leave her foster home when she had reached 18 years of age but had been required to do so; the applicant had sent a letter of complaint to the Leaving and After Care Service which had set out her transition from care to the NACRO Housing Association supported housing scheme and the problems she had claimed to have experienced whilst living in the NACRO Housing Association property;

(e) following the applicant's homelessness application to the Council, an interim duty to accommodate her had been accepted pending further enquiries as it had been accepted that she was eligible for assistance because she held a British passport, was homeless because she had no accommodation available to her and was in priority need because she was a care leaver under 21 years of age;

(f) the officers had decided that the applicant had made herself intentionally homeless; it was this decision that had prompted the request for the review currently before the Panel; the applicant had been provided with bed and breakfast accommodation pending the outcome of this review;

(g) regard should be had to the Code of Guidance which was used by local authorities to assist with the interpretation of homeless legislation; in particular Paragraph 11.7 which related to homelessness intentionally;

(h) it was considered that the applicant's wilful and persistent refusal to pay her rent for the NACRO Housing Association managed property had been a deliberate act; in consequence she had been served with notice by NACRO Housing Association; her rent arrears had been caused by her consistent failure to provide the Housing Benefit Department with information and her refusal to pay her landlord the personal charge part of the rent which had not been eligible for Housing Benefit; it was considered that the applicant's NACRO Housing Association managed accommodation would have continued to be available to her had she complied with the terms of her tenancy and had not accrued rent arrears; it was also considered that the property would have been reasonable for her to occupy as it had been a room in a supported housing project and she needed support because of her young age and care background; had the applicant paid the personal charge element of her rent to NACRO Housing Association, provided the information required from her in order for the benefit claim to be assessed and allowed NACRO Housing Association

to support her with the problems she had experienced, she would not have been served with notice and become homeless;

(i) account had been taken of the applicant's care background, her claim to have been depressed and the problems she had experienced with drugs and alcohol when she had occupied the NACRO Housing Association managed property;

(j) in the event of the Panel upholding the officer's decision the applicant should be given reasonable notice to vacate her bed and breakfast accommodation.

The Assistant Housing Options Manager (Homelessness) answered the following questions of the applicant, those supporting her and the Panel:-

(a) Can you explain the layout of the NACRO Housing Association managed property in which the applicant had been placed? – It was a three bedroom house, enabling three tenants to occupy their own rooms and to share the communal areas; it is my understanding that the young man with whom the applicant became close had moved into the property after the applicant;

(b) Can you explain how the young man was allowed to have drugs in the property? – I am limited to what I can say by the provisions of the Data Protection Act; NACRO Housing Association advised the Council that the young man had tested negative for drugs and was progressing well; it is my understanding that the applicant's problems started before this young man moved into the property although her foster carer's view was that the applicant had not been taking drugs before moving to the NACRO Housing Association managed property;

(c) I understand there were complaints about anti-social behaviour at the NACRO Housing Association managed properties; is this correct? – Yes but they did not result in the applicant being asked to leave the property;

(d) Do you agree that NACRO Housing Association were aware of the drug taking because they issued warnings? – The notice given to the applicant was due to rent arrears not to anti-social behaviour;

(e) Do you have any information about when the applicant started taking drugs? – No (with the permission of the Chairman the applicant advised that she had started taking drugs at the NACRO Housing Association managed property when the young man to whom she had become close had moved in; she said that he was her safety blanket);

(f) Why did the applicant sign on for Job Seeker's Allowance when she had wanted to continue with her education? – It was my understanding she was not working and not studying formally and was therefore in a position of claiming either Income Support or Job Seeker's Allowance;

(g) How many care leavers do the Council house per year? – An average of six a year and the practice is to refer them to NACRO Housing Association in order to receive the support they require;

(h) Does the Council have any say in where care leavers are housed? – The Council has a duty to provide accommodation and has chosen to do so through NACRO Housing Association; most of the referrals are successful with the young people staying in supported housing for approximately 18 months and then being in a position to live independently; once a case is referred to NACRO Housing Association it is for them to determine the best place to place that person;

(i) Since the applicant has been accommodated in bed and breakfast has she been making any payments? – She has been trying to meet the personal charge; she has had some problems with Housing Benefit but has been making some payments;

(j) The applicant has said that she did not want to move to the area in which she was housed by the NACRO Housing Association; why could they not accommodate her in one of their properties elsewhere? – Placements depend on vacancies being available;

(k) Do you consider that the applicant received sufficient support from NACRO Housing Association? – As I have said, the Council refers an average of SIX care leavers a year; my experience is that the Housing Association does provide effective support and most referrals move on successfully after a period in the Housing Association's supported accommodation;

(During the questioning of the Assistant Housing Options Manager (Homelessness) the Chairman allowed further questions to be put to the applicant and those assisting her. The Chairman also permitted them to make statements relating to the applicant's attempts to sign on for Job Seeker's Allowance and the difficulties in resolving her benefit applications due to her lack of money and transport. They also stated that the applicant was trying to address her issues now; she accepted she had made mistakes and was now trying to take responsibility for her actions).

(l) (To the applicant's Personal Adviser from the Leaving and After Care Service) - Can you clarify the responsibility of the Leaving and After Care Service in relation to those in care? – The service has a responsibility to care leavers in education up to the age of 21 but from the age of 18, unless the foster carer had been prepared to change her status as mentioned earlier at this meeting the Council became the lead authority for housing and had a duty to provide suitable accommodation;

(m) (To the applicant's Personal Adviser from Leaving and After Care Service) - If the applicant had continued in education would it have been possible for her to have stayed with her foster carer? – If the foster carer had changed her status to that of supported lodgings provider;

(n) (To the applicant) Are you in education at present? – No;

(o) (To the applicant) Do you have a job at present? – No;

(p) (To the applicant) Have you signed on for employment? – Yes;

(q) (To the applicant's Personal Adviser from the Leaving and After Care Service) - What support can the applicant now get from the Leaving and After Care Service? – I understand that she would like to go to college in September and she can receive advice and support including help in completing application forms; financial support is different and the position will change when the applicant becomes 21 in October;

(r) (To the applicant) When you first moved into the NACRO Housing Association managed property were matters explained to you? – Nobody told me what to do; I knew I had to apply for benefits but I got no help.

The Chairman asked the applicant if she wished to raised any further issues in support of her case. The applicant stated that she had nothing further to add.

The Chairman asked the Assistant Housing Options Manager (Homelessness) if he wished to raise any further issues in support of his case. The Assistant Housing Options Manager (Homelessness) stated that he had nothing further to add.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and the applicant and the Assistant Housing Options Manager (Homelessness) would be advised in writing of the outcome. The applicant, those accompanying her and the Assistant Housing Options Manager (Homelessness) then left the meeting.

The Panel considered all of the evidence and the submissions which had been made by and on behalf of the applicant and by the Assistant Housing Options Manager (Homelessness). The Panel focused on the legislation and the Code of Guidance on homelessness, the evidence regarding the applicant's occupation of a NACRO Housing Association-managed property and the support she had received whilst occupying that property. In relation to the level and nature of the support the applicant had received, members of the Panel weighed the conflicting evidence between the applicant's views and comments and the comments of NACRO's Area Team Manager; in so doing, by a majority, members concluded on balance that the support offered had been adequate and to the level expected.

The Panel considered inviting the NACRO Housing Association Team Manager to attend a future meeting of the Panel in order to give a presentation on the service they provide. Members also considered issuing a similar invitation to the Team Manager of Essex County Council's Leaving and After Care Service.

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 had become intentionally homeless be upheld for the following reasons:

(a) it is considered that the applicant's last settled accommodation was the NACRO Housing Association managed property she occupied until January 2008, because since that time she has stayed for periods with her former foster carer or with friends and these arrangements are not considered to have been settled, as they were for relatively short periods and were precarious in nature;

(b) from the commencement of her tenancy of the NACRO Housing Association managed property, the applicant consistently refused to pay the personal charge element of her rent and failed to provide the Job Centre and the Housing Benefits Section of the Council with the information they required in order to process the applicant's benefit claims; this led to rent arrears of £2,721.72 and resulted in NACRO Housing Association obtaining possession of the property;

(c) on balance it is considered that the applicant was offered adequate support by NACRO Housing Association and the Leaving and After Care Service but she repeatedly failed to attend appointments and meetings which made it extremely difficult for the applicant's support workers to assist the applicant with her problems, including payment of the rent;

(d) that had it not been for the deliberate acts set out in (b) and (c) above, the NACRO Housing Association managed property would have continued to be available and reasonable for the applicant to occupy, as it was a room in a supported housing project able to provide the applicant with the support she required because of her young age and care background;

(e) from the evidence submitted, and from the applicant's presence at the meeting, it is considered that she is intelligent and was aware of her responsibility to pay rent whilst at the NACRO Housing Association managed property; account has been taken of the applicant's care background, her use of drugs and alcohol and her claims of depression; it is considered, on balance, that the applicant's failure to pay the rent and make successful claims for benefit were not beyond her control; it is clear that the applicant was aware of the consequences of her actions as she received numerous warnings from NACRO Housing Association;

(2) That based on the evidence submitted, no deficiency or irregularity has been identified in the original homelessness decision made by the officers and the manner in which it was made;

(3) That the Council continues to provide interim accommodation for the applicant for a period of 2 months from receipt of the decision letter in order to allow the applicant reasonable opportunities to secure alternative accommodation;

(4) That, subject to there being cases to be considered by the Panel at the meeting scheduled for 18 June 2009, the NACRO Housing Association Team Manager be invited to make a presentation immediately before that meeting to members and substitutes of the Panel and other interested members of the Council on the role of that Housing Association; and

(5) That the Team Manager of Essex County Council's Leaving and After Care Service be invited to make a presentation to members and substitutes of the Panel and other interested members of the Council on a date to be determined by officers in consultation with the Chairman of the Panel on the role of that Service.

CHAIRMAN