

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Monday, 26 April 2010

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 2.30 - 4.40 pm

Members Present: Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), B Rolfe, Mrs J Sutcliffe and J Wyatt

Other Councillors:

Apologies:

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

51. SUBSTITUTE MEMBERS

It was noted that there were no substitute members at this meeting.

52. DECLARATIONS OF INTEREST

There were no declarations of interest by members of the Panel under this item.

53. 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 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 No.	Subject	Exempt Information Paragraph No.
5	Application No 4/2010	1

54. APPLICATION No. 4/2010

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 accompanied by his wife and a paralegal from his solicitors. 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 members of the Panel and officers present to the applicant and in doing so apologised for the delay in commencing the meeting which had been due to the need to read additional representations received from the applicant's solicitors earlier that day.

The Chairman outlined the procedure to be followed in order to ensure that proper consideration was given to the application. The applicant advised that he was unable to present his case and that the paralegal would present it on his behalf.

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

- (a) copies of documents submitted by the applicant, namely:
 - (i) his application to the Housing Appeals and Review Panel dated 24 March 2010;
 - (ii) letter from the applicant to Members of the Panel received on 21 April 2010;
 - (iii) letter dated 21 April 2010 to Members of the Panel from the applicant's solicitors;
 - (iv) letter dated 12 February 2010 (the Section 184 decision letter) from the Assistant Housing Options Manager (Homelessness) to the applicant;
 - (v) letter dated 3 March 2010 (request for a Section 202 review) from the applicant's solicitors to the Assistant Housing Options Manager (Homelessness);
 - (vi) e-mail dated 15 October 2009 regarding an exclusion zone applying to the applicant;
 - (vii) map of exclusion zone relating to the applicant;
 - (viii) letter dated 20 April 2010 from solicitors appointed by the applicant's solicitors regarding a court appearance by the applicant;
 - (ix) attendance note dated 19 April 2010 from Counsel regarding attendance at court proceedings regarding the applicant;
 - (x) letter dated 26 April 2010 from the applicant's solicitors to Members of the Panel;
- (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) London (091015) Multi Agency Public Protection Arrangements referral document regarding the applicant;
 - (ii) Housing Officer file note dated 14 December 2009 following an interview with the applicant;

- (iii) Housing Officer file note dated 9 February 2010 following a further interview with the applicant;
- (iv) letter dated 12 February 2010 from the Assistant Housing Options Manager (Homelessness) to the applicant (Section 184 decision letter).

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

- (a) the applicant was aged 71; he suffered from ill health in the form of diabetes, angina, deep vein thrombosis, high blood pressure, ulcers, incontinence, glaucoma and cataracts; he had had his left leg amputated in 2008 and was dependent on a wheelchair for mobility; he was dependent on his wife and social services for day to day care with washing, meals and activities and was currently prescribed 10 different medications;
- (b) on 21 November 1997 the applicant had been found guilty of rape, indecent assault and buggery of four of his children; he had been sentenced to 12 years imprisonment; he had presented himself to the Council on 9 November 2009 but his application had only been accepted on 14 December 2009 after a letter before claim had been made; he had subsequently been provided with temporary accommodation by the Council pending review;
- (c) the applicant had received a negative Section 184 decision letter from the Council on 12 February 2010 stating that he was eligible, homeless and in priority need but that he was intentionally homeless as the Council "considers the abuse of the children were deliberate acts";
- (d) the applicant did not have the means or resources to find accommodation in the private sector;
- (e) the definition of intentional homelessness was contained under Section 191(1) of the Housing Act 1996 and stated that a person became homeless intentionally if he deliberately did or failed to do anything in consequence of which he ceased to occupy accommodation which was available for his occupation and which it would have been reasonable for him to continue to occupy;
- (f) the statutory formulation was treated as having five elements and five key questions should be asked:-
 - (i) Was there a deliberate act or omission (which did not include an act or omission in good faith by a person unaware of a material fact)?;
 - (ii) Was that a deliberate act or omission by the applicant?;
 - (iii) Was it a consequence of that deliberate act or omission that the applicant ceased to occupy accommodation?;
 - (iv) Was that accommodation available for the applicant's occupation?;
 - (v) Would it have been reasonable for the applicant to have continued to occupy the accommodation?;
- (g) for a person to be intentionally homeless, the Council had to satisfy itself that all the elements of the definition applied; each of the elements had to be considered carefully and in the light of relevant case law;

(h) submissions were made in the alternative; an applicant could only be intentionally homeless from accommodation in which he was last settled; in this case, the applicant's last period of settled accommodation had been a property in an adjoining borough; the applicant had begun his custodial sentence on 21 November 1997 but had continued to occupy that property as his only home until his wife had successfully applied for a transfer on 8 December 1997; it was submitted that it was this act by the applicant's wife of transferring her tenancy that was the deliberate act which caused the loss of the applicant's last settled accommodation, rather than any act of the applicant; it was further submitted that in the circumstances the second element outlined earlier had not been satisfied and accordingly the test for intentional homelessness had not been met; in the alternative if the submissions just made were not accepted, it was submitted that the Council's decision that the applicant had become intentionally homeless as a result of deliberate acts of child abuse was unlawful because the Council had failed to consider and satisfy each of the five elements outlined earlier; it was submitted that the Council had only considered key questions 1 to 3; furthermore it was submitted that the applicant was not intentionally homeless because the first, third and fourth elements of the test had not been satisfied;

(i) under paragraph 11.17(ii)-(iii) of the English Code of Guidance to Local Authorities, a person's mental capacity was a factor in whether the act was deliberate; the Act stated that generally an act or omission should not be considered deliberate where "(ii) the Housing Authority has reason to believe the applicant is incapable of managing his or her affairs, for example, by reason of age, mental illness or disability; (iii) the act or omission was the result of limited mental capacity; or a temporary aberration or aberrations caused by mental illness, frailty or an assessed substance abuse problem";

(j) according to the World Health Organisation, the Diagnostic and Statistical Manual of Mental Disorders, the American Journal of Psychiatry, the British Journal of Psychiatry and the Royal College of Psychiatrists, paedophilia was a mental illness; it was submitted that the applicant suffered from the mental illness of paedophilia and consequently paragraph 11.17(ii) and/or (iii) of the Code of Guidance applied to the applicant; it was submitted that the applicant was incapable of managing his affairs by reason of his mental illness, paedophilia, or in the alternative, the act was the result of aberrations caused by mental illness, paedophilia, and could not be viewed as deliberate;

(k) Paragraph 11.14 of the English Code of Guidance stated that not all people who committed criminal acts should automatically be found to be intentionally homeless; in considering whether such an applicant was homeless intentionally, the housing authority had to decide whether, taking into account all the circumstances, there was likelihood that ceasing to occupy the accommodation could reasonably have been regarded at the time as a likely consequence of committing the offence;

(l) in other cases where applicants had committed criminal acts, they had been found intentionally homeless specifically because of failure to pay rent or because they had surrendered their tenancy (for example in *Stewart v Lambeth London Borough Council* (2002) EWCA Civ 753 *Stewart* had been found to be intentionally homeless because of wilful and persistent failure to pay rent); in *R v Hounslow London Borough Council ex parte R* (1999) 29HLR 939, R had been convicted of a number of indecent assaults and sentenced to seven years imprisonment, and, realising that he would not be able to pay the rent, had surrendered his tenancy;

(m) it was submitted that the applicant's case was distinguishable from *Stewart* and *R v Hounslow* because the applicant had not lost his property because of arrears

or because he had surrendered the tenancy; it was submitted that it was as a result of the applicant's wife's deliberate act of having transferred the tenancy that the applicant had ceased to occupy his last settled accommodation; however, in the alternative it was submitted that after the applicant had finished serving his custodial sentence his wife's accommodation at that time would have been available had there not been an exclusion zone in place, in contrast to R v Hounslow who after serving his seven year custodial sentence, had surrendered his tenancy;

(n) account should also be taken of the case of Robinson v Torbay BC 1982 All ER 726 QBD and R v Westminster CC v ex p Reid (1994) 26HLR 691 QBD in relation to the fact that the loss of the home had to be the reasonable result of the deliberate act;

(o) when the applicant had been in prison his wife had been transferred by her landlord under an emergency management transfer to alternative accommodation because of the actions of vigilantes harassing and threatening her; it was the actions of these individuals which were outside of the applicant's control and not the reasonable consequence of the offences for which he was convicted that had led to the loss of the applicant's last settled accommodation;

(p) the victims of the offences for which the applicant had been convicted were members of his family and it was not a likely consequence of his actions that members of the wider public would harass his family;

(q) the exclusion zone which had been applied to the applicant was very broad and had lasted for a lengthy period of time and it was submitted that such an extensive exclusion zone was not the reasonable result of the applicant's convictions; it may have been a likely consequence of his actions that he would have been prevented from contacting the victims and their families or going to their addresses or places of work or school but not that he should be excluded from such a large area;

(r) the applicant was a vulnerable individual, with numerous health concerns and community care needs; at a hearing approximately a week ago the court had not seen fit to impose a Sex Offender Prevention Order on the applicant due to the historic nature of the offences and his age and disabilities.

The applicant, his wife and his paralegal answered the following questions of the Assistant Housing Options Manager (Homelessness) and Members of the Panel:-

(a) Was the property into which the applicant's wife was transferred in her sole name or joint names with her husband? The tenancy was in joint names.

(b) When interviewed on 9 February 2010 the applicant had stated that the tenancy had been in the sole name of his wife; which is correct? The note of the interview is not correct. (In support of this statement the applicant circulated a rent card containing both his and his wife's names).

(c) What were your circumstances before 1997? I had been an engineer all of my life but I was disabled when I went to prison.

(d) What was your profession? An electrical and mechanical engineer.

(e) You say that you were disabled before going to prison but is it correct that your left leg was amputated whilst you were in prison? Yes.

(f) Did you have mobility problems whilst in prison? Yes.

- (g) What medical conditions did you have prior to 1997? I suffered ill health and, in particular, angina and depression.
- (h) Who dealt with household management issues before you went to prison? My wife.
- (i) Are you now more vulnerable than you were when you went to prison? Yes.
- (j) Were you were convicted for abusing four of your children over a 20 year period? Yes.
- (k) What were the circumstances of moving from properties in the adjoining borough? I was not present when this happened as I was in prison.
- (l) Did your wife suffer harassment? Yes.
- (m) Can you explain the manner of the harassment? (The applicant's wife stated that the property had been broken into and a car had been damaged; the police advised her that it was not safe for her to remain in the property and the Council had transferred her to another property).
- (n) Submissions have been made about paedophilia being a mental illness but it does not appear that this submission was accepted by the court as otherwise the applicant would not have been sent to prison; can you clarify? (The applicant's paralegal stated that different tests applied; if someone in a criminal sense was deemed to have serious mental illness that might affect the decision of the court; however, from a housing point of view the applicant had already been punished by serving 12 years in prison and should not be punished again; if someone had a mental illness this had to be taken into account from a housing perspective).
- (o) Would this be your interpretation if the offences had not been committed? That is not the position. (The applicant's paralegal stated that the subsequent matters would not have happened; it was necessary for the property transfer to take place due to illegal activities of the general public; the question to be asked by the Panel was whether the home had been lost due to the consequence of the applicant's acts; it was submitted that in this case the property had been transferred because the applicant's wife had been harassed; the applicant could return to the property currently being occupied by his wife if there was not an exclusion zone in place because his name was on the tenancy; it was necessary to consider whether this exclusion zone was reasonable or too general; the exclusion zone prevented the applicant from living in a locality where he had lived for 20 years).
- (p) How long does the exclusion zone apply? It is only valid for a few more weeks.
- (q) Is mental illness a reason for not managing one's affairs? (The applicant's paralegal stated that it was one reason; the offences were committed 23 years ago and the applicant had had a long term mental illness for at least 23 years; the organisations identified defined paedophilia as a mental illness and it was submitted therefore that the applicant suffered from a mental illness).
- (r) Have you seen a psychiatrist and what medication do you take? I have not seen a psychiatrist and I am not on any medication.

(s) You do not admit to the offences so how can you say that these were due to a mental illness? (The applicant's paralegal stated that the applicant accepted some of the offences but the applicant stated that he did not admit to any of the offences).

(t) In the light of the previous answers your argument is not understood; can you clarify? (The applicant's paralegal stated that the applicant had been referred for treatment but had not attended and it was for this reason that he had been returned to prison).

(u) If the applicant denies that he has any mental illness how can you sustain your argument? (The applicant's paralegal stated that a criminal court had come to the decision that the applicant had committed the offences. The applicant's wife stated that denial was a product of mental illness).

(v) Is the property currently occupied by the applicant's wife within the exclusion zone? Yes;

(w) Is the property currently occupied by the applicant's wife closer to the family than the applicant's last settled accommodation? Further away.

(x) When the applicant's wife accepted a transfer did she not take account of the fact that her husband would not be able to join her in that property? At that time the exclusion zone was not in place; it was only put in place in 2005.

(y) You stated that you did not have the means to find a property in the private sector; however you have stated that you would be prepared to buy a mobile home; these submissions appear to be contrary? Buying a mobile home is pie in the sky and I was not expecting to have to come to this type of meeting when I made that comment.

(z) Why are you seeking to live within the Epping Forest District? I have always been in and around Epping and it is close to the adjoining borough where I previously lived.

(aa) Have you applied to any other housing authorities? No.

(bb) Have you started bidding for properties? (The applicant's wife stated that she had).

(cc) You submitted that the Council had failed to consider and satisfy each of the five elements to be taken into account in considering intentional homelessness; you stated that the Council had only considered questions 1 to 3 but then continued that the applicant was not intentionally homeless because the first, third and fourth elements were not satisfied; can you clarify? It is submitted that the Council's conclusions in relation to questions 1 and 3 were wrong; the Council's Section 184 decision letter only considered elements 1, 2 and 3 and did not consider element 5 fully but only in relation to element 4;

(dd) The rent card you circulated shows two names but it is dated 2002 and not up to date; is the applicant on the rent book now? No.

(ee) When was the applicant's name removed from the rent book? In 2001; from 1997 until 2001 he was still a joint tenant.

(ff) Can you explain CSOGP which is contained in your submissions? Community Sexual Offender Groupwork Programme.

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

(a) the applicant held a British passport and was 71 years of age; he was married but was not permitted to live with his wife until June 2010 due to legal conditions placed on him when he had been released from prison;

(b) the applicant had applied as homeless following the Notice to Quit he had received from a hostel in London when his licence had ended; the applicant had been eligible for assistance because he had a British passport, homeless because he had no accommodation available to him and in priority need because of his physical disability; the homelessness legislation had then required the Council to be satisfied that the applicant had not made himself intentionally homeless;

(c) the applicant had been the joint secure tenant of a property in an adjoining borough with his wife; the property had been a four bedroom maisonette owned by a London Borough Council; in 1997 the applicant had been sentenced to 12 years imprisonment for rape, indecent assault and buggery; the applicant had sexually and physically abused four of his children over a 20 year period; following the applicant's imprisonment, the applicant's wife had to be moved by the Council in the area where she lived because she had experienced harassment from neighbours; the applicant's wife had been moved to another address in that borough; it had been thought that she had become the sole, secure tenant of that property but the evidence submitted earlier at this meeting suggests that the property was in joint names of the applicant and his wife until 2001; the applicant had been sentenced to 12 years imprisonment from November 1997;

(d) in May 2009, the applicant had been released from prison on licence and required to reside at a hostel in London; the applicant had resided there whilst he was on licence between May 2009 and November 2009; in November 2009 the applicant had been required to leave the hostel as his licence had expired; the applicant had made a homelessness application to this Council as he was not permitted to reside in the area he had lived in prior to being sentenced to prison; the applicant had been provided with interim bed and breakfast accommodation whilst enquiries had been undertaken to establish what duty was owed to him;

(e) it had been decided that the applicant had made himself intentionally homeless and he had been asked to vacate his bed and breakfast accommodation; a referral had been made to Essex County Council Social Care to inform them that the applicant would be without accommodation and that because of his physical disability he would be in need of care and attention in accordance with the National Assistance Act 1948; the homelessness decision letter had made the applicant aware of his entitlement to seek a review of the decision to deem him intentionally homeless; the applicant had requested a review of the decision and completed an application to this Panel; in this case it was the decision that the applicant had made himself homeless intentionally that had prompted the request for the review;

(f) it had been submitted on behalf of the applicant that not all the key questions and elements had been taken into account in determining the applicant intentionally homeless; this submission was not accepted;

(g) in making homelessness decisions the Council had to have regard to the Code of Guidance which was used by local authorities to assist with the interpretation of the homelessness legislation; the Code of Guidance (11.7) stated that a person became homeless or threatened with homelessness intentionally if he deliberately

did or failed to do anything in consequence of which he ceased to occupy accommodation (or the likely result of which was that he would be forced to leave accommodation), the accommodation was available for his occupation and it would have been reasonable for him to continue to occupy the accommodation;

(h) it was considered that the applicant's abuse of his children had been deliberate acts; in consequence of these acts the applicant had been imprisoned and had ceased to occupy a property; it was believed that the accommodation would have continued to be available for his occupation had he not committed the offences as he had been the joint tenant of that property and had been legally entitled to occupy it; it was further considered that it would have been reasonable for the applicant to occupy that property had he not committed these criminal acts, as it had been a four bedroom maisonette with an affordable rent; the applicant had not given officers the impression that he was incapable of managing his affairs as he had provided clear answers to questions, had not been on medication and had not thought it necessary to see a psychiatrist; there was no evidence to indicate that the applicant had been incapable of managing his affairs;

(i) it had been submitted that the applicant's acts had been a temporary aberration or aberrations caused by mental illness; the applicant had systematically abused his children over a period of 20 years and as a consequence of that he had been imprisoned and had ceased to occupy his last settled accommodation; accordingly the acts could not be regarded as a temporary aberration or aberrations;

(j) it was submitted that ceasing to occupy the last settled accommodation was the likely consequence of the applicant's committing his criminal acts; the applicant's last settled accommodation had been the property he had occupied before going to prison as neither the hostel nor the interim bed and breakfast accommodation he had resided in constituted settled housing; the last settled accommodation had been considered reasonable for the applicant to continue to occupy because this had to be judged at the time that the deliberate acts took place and at that time the applicant had been in reasonable health and had considered the property to be reasonable accommodation; prison was not settled accommodation nor was it an intervening event which could set aside the conduct which had caused the homelessness; had the applicant not committed his offences he would not have been imprisoned and would have been able to continue to reside at his last settled accommodation; having committed the offences and being imprisoned the applicant's wife had been transferred to another property and the applicant was not permitted to live there due to an exclusion zone; it was clear that if the applicant had not abused his children he would not now be homeless; no evidence had been submitted that the applicant would not have been able to live at the settled accommodation if he had not committed the acts;

(k) the Panel was invited to uphold the officers' decision; in the event that the decision was upheld the applicant should be given reasonable notice to leave bed and breakfast accommodation; due to the applicant's needs and the risks posed, he should be given a minimum of six weeks notice that his bed and breakfast accommodation was to be cancelled in order to provide sufficient time for other agencies to prepare for the applicant's homelessness; a further referral should also be made to Essex County Council in order that Social Care could assess their responsibility to him in accordance with the National Assistance Act 1948.

The Assistant Housing Options Manager (Homelessness) answered the following questions of the applicant's paralegal and Members of the Panel:-

(a) Do you consider the exclusion zone imposed on the applicant is too large and too general? The exclusion zone was imposed by the Criminal Justice system for the safety of victims of offenders and the interests of public safety; it seems to me to be reasonable.

(b) How can you say it is reasonable when there are no victims in the area and the offences happened 35 years ago in and around London? I understand that it applies until members of the family reach 18 years of age at which time the applicant will be allowed to return to the area; it is not for me as a Housing Officer to justify the Criminal Justice system; the exclusion zone exists and has to be taken into account; the exclusion zone cannot be blamed for the applicant's homelessness.

(c) Are you satisfied that you addressed the five elements identified in the applicant's submissions? It is necessary to deal with the facts as presented and not for Housing Officers to say whether an exclusion zone is right or wrong; it is submitted that the five elements were considered and were taken into account in the decision letter; it is further believed that the evidence submitted today has shown that these elements were all considered; there had been a deliberate act by the applicant as a consequence of which he had ceased to occupy a property because he had been imprisoned; that property would have been available and would have been reasonable for him to have continued to occupy had he not committed the offences.

(d) Did the officers consider the mental illness aspect which has been raised today? When dealing with the original homelessness application I do not recall mental illness being raised by the applicant; consideration had been given to his general health but no evidence had been submitted about his mental illness; it had only been recently that paedophilia had been put forward as a mental illness and this aspect had not been considered by officers.

(e) Have any concerns been expressed about the applicant whilst he was housed in the hostel in London or in the bed and breakfast accommodation provided by this Council? I have no knowledge of the former but there have been two issues whilst he has been in bed and breakfast accommodation; his extensive needs have required care from a number of agencies and mentoring has been undertaken.

The Chairman asked the applicant if he wished to raise any further issues in support of his application.

The applicant stated that he had been to court the previous week and that had the judge considered he was still a risk a Sexual Offences Prevention Order would have been made. For a person to be intentionally homeless the loss of a home had to be a result of a deliberate act. The exclusion zone and the harassment of the applicant's wife were factors which had caused the loss of accommodation. The exclusion zone was not considered reasonable as it was too general and not specific. The applicant had lived in the area for 20 years and if the exclusion zone had not been so general it would have been possible for him to return home. The fact that someone committed a criminal act and was sent to prison did not mean that they lost their home.

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) submitted that the acts of the applicant took place prior to the transfer of the accommodation and were the acts which had led to the loss of the applicant's last settled accommodation.

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, his wife, his paralegal and the Assistant Housing Options Manager (Homelessness) then left the meeting.

In coming to its decision the Panel focussed on the applicant's circumstances in relation to the five elements relating to intentional homelessness put forward by the applicant's solicitors, based on the requirements of Section 191(1) of the Housing Act 1996.

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 became homeless intentionally be upheld for the following reasons:

(a) the applicant's last settled accommodation was the property he occupied immediately before being imprisoned in November 1997;

(b) there were deliberate acts, namely the rape, indecent assault and buggery of four of the applicant's children; although the applicant denied that he was responsible for the acts he was found guilty of the offences in a court of law and sentenced to 12 years imprisonment; based on the evidence before the Panel it is considered that the applicant committed the deliberate acts;

(c) consideration has been given to the applicant's solicitors' assertions that the acts should not be regarded as deliberate acts due:

(i) to the applicant being incapable of managing his affairs, by reason of mental illness, in this case the solicitors' assertion that paedophilia is a mental illness;

(ii) as the result of limited mental capacity, or a temporary aberration or aberrations caused by mental illness, frailty or an assessed substance abuse problem;

account has been taken of the apparent views of the World Health Organisation, the Diagnostic and Statistical Manual of Mental Disorders, the American Journal of Psychiatry, the British Journal of Psychiatry and the Royal College of Psychiatrists that paedophilia is a mental illness; however, no evidence was presented to the Panel to show that the applicant was incapable of managing his affairs at the time of committing the deliberate acts; the acts are also not considered to have been a temporary aberration caused by mental illness as they took place on a regular basis over a period of 20 years with different children;

(d) it is considered that it was a consequence of the deliberate acts by the applicant that he ceased to occupy accommodation that would have continued to be available for the applicant's occupation, if he had not committed the deliberate acts and been caught, and would have been reasonable for the applicant to have continued to occupy - as it was a large

property and at the time the applicant did not have the mobility problems and ill health which he now suffers;

(e) it is considered reasonable to conclude that, when committing the acts, the applicant would have known that if he got caught he would go to prison; it is further considered reasonable to conclude, in view of the nature of the offences, that the applicant would have known that there would be considerable publicity about such offences in the locality of the accommodation and that this could well lead to his wife being pressurised and/or harassed by members of the public, possibly making continued occupation of the accommodation untenable; it is considered that this could have been foreseen as a reasonable outcome of his actions;

(2) That, based on the evidence submitted, no deficiency or irregularity has been identified in the original homelessness decision made by officers and the manner in which it was made; the submissions made by the applicant's solicitors about being incapable of managing his affairs could not be taken into account by the officers, as no evidence regarding this aspect was before them when they considered the matter; furthermore no evidence was provided to the Panel either;

(3) That the Council continues to provide interim accommodation for the applicant for a period of two months (i.e. until 30 June 2010) in order to allow the applicant, together with other agencies reasonable time to find alternative accommodation;

(4) That, with the agreement of the applicant, the officers refer the applicant to Essex County Council in order that Adult Social Care can assess their responsibility to the applicant in accordance with the National Assistance Act 1948.

55. LAST MEETING OF THE PANEL

The Chairman announced that this would be the last meeting of the Panel during the current municipal year. She thanked members of the Panel and officers for the support she had received during the year.

Members of the Panel thanked the Chairman for the way in which she had conducted meetings.

CHAIRMAN