

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 9 September 2010

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 2.45 - 4.55 pm

Members Present: Mrs R Gadsby (Chairman), Mrs J Sutcliffe (Vice-Chairman), R Barrett, Ms J Hart and B Rolfe

Other Councillors:

Apologies: Mrs C Pond

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

16. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 22 July and 2 August 2010 be taken as read and signed by the Chairman as a correct record.

17. SUBSTITUTE MEMBERS

It was noted that Councillor Ms J Hart was substituting for Councillor Mrs C Pond.

18. DECLARATIONS OF INTEREST

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

19. 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 the disclosing the information.

Agenda Item No.	Subject	Exempt Information Paragraph No.
6	Application No. 9/2010	1

20. APPLICATION NO. 9/2010

The Panel considered a request for a review of a decision made by officers under delegated authority that the applicant had made herself homeless intentionally from temporary accommodation provided by the Council and that the duty on the Council to provide the applicant with accommodation had been discharged. The applicant attended the meeting to present her case accompanied by Councillor P Gode and her mother. Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case accompanied by Ms Y Kwaitoo, Manager of the temporary accommodation secured by the Council for the applicant, and provided by a housing association, East Living.. Mr A Hall, Director of Housing, attended the meeting to advise the Panel as required on relevant legislation and national and local housing policies relative to the application.

The Chairman introduced the Members of the Panel and officers present to the applicant.

The Chairman asked the applicant and the Assistant Housing Options Manager (Homelessness) if they had any objection to Ms J Boyd an officer from East Herts District Council attending the meeting as an observer. Both parties agreed that they had no objection to Ms Boyd being present throughout the proceedings.

The Chairman 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:
 - (i) her application to the Housing Appeals and Review Panel dated 7 July 2010;
 - (ii) an undated letter from another resident of the accommodation secured for the applicant by the Council regarding an incident between staff of the accommodation and the applicant;
 - (iii) letter dated 25 May 2010 to "Whom It May Concern" from the Head Teacher of the School attended by the applicant's children;
 - (iv) letter dated 23 April 2010 to "Whom It May Concern" from the applicant's GP;
 - (v) letter dated 14 July 2010 to "Whom It May Concern" from the applicant's mother;
 - (vi) note made by staff of the accommodation secured by the Council for the applicant of a complaint made by the applicant about another resident of the accommodation;
 - (vii) letter dated 26 July 2010 from the Saxon Citizens Advice Bureau making representations on behalf of the applicant together a further copy of the undated letter from another resident of the accommodation secured for the applicant by the

Council regarding an incident between the staff of the accommodation and the applicant; a further copy of the letter dated 25 May 2010 to "Whom it May Concern" from the Head Teacher of the School attended by the applicant's children; a further copy of the letter dated 23 April 2010 to "Whom it May Concern" from the applicant's GP; a further copy of the note made by staff of the accommodation secured by the Council for the applicant of a complaint made by the applicant about another resident of the accommodation; and letters dated 14 January 2010 and 4 February 2010 from the Housing Association managing the occupation secured for the applicant by the Council to the applicant regarding her complaint about staff at the accommodation;

- (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) a schedule of the applicant's address history;
 - (ii) the house rules of the accommodation secured for the applicant by the Council;
 - (iii) a copy of the Section 21 Notice dated 3 May 2010 served on the applicant by the Housing Association managing the accommodation secured for the applicant by the Council;
 - (iv) accident/incident/safeguarding report forms completed by staff of the Housing Association managing the accommodation secured for the applicant by the Council regarding incidents on 20 April 2010 and 30 April 2010;
 - (v) note taken by staff of the Housing Association managing the accommodation secured for the applicant by the Council of admission by the applicant of breaches of the house rules;
 - (vi) notes taken by the applicant's Homelessness Case Officer following an interview with the applicant on 11 June 2010;
 - (vii) letter dated 5 July 2010 from the Council's Medical Adviser to a Council Housing Officer;
 - (viii) letter dated 5 July 2010 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 suffered from depression and anxiety for many years; the applicant was being supervised by a psychiatrist;
- (b) if the applicant had received support and been respected by staff at the accommodation secured for her by the Council she would not have broken the house rules of the accommodation;
- (c) she had been victimised and bullied by the staff and blamed by them for getting another resident evicted from the accommodation;

(d) a complaint made by the applicant to the Housing Association managing the accommodation about the behaviour and attitude of the staff of the accommodation had not been dealt with properly;

(e) the applicant's depression and anxiety had worsened because of the attitude to her of the staff of the accommodation secured for her by the Council; as a result she had sought support from her family and her partner;

(f) one of the applicant's children had already attended five different primary schools; a change in the applicant's housing circumstances might necessitate a further change of school which would be detrimental to his education; the applicant's other child had also settled well into the local school;

(g) the applicant's children had no friends to play with in the accommodation provided and they also felt lonely and isolated and missed seeing their family;

(h) staff at the accommodation were aware of other residents having visitors in breach of the house rules but as they had taken no action regarding these breaches the applicant had committed similar breaches.

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

(a) How many support sessions did you receive from the staff at the accommodation secured for you by the Council? I had sessions with a student not a key worker.

(b) How many sessions did you have? I had two or three with a key worker and others with a student.

(c) Why did you move to this District? The father of one of my children who had subjected me to domestic violence was due to be released from prison and was expected to return to the area in which I was living at the time. The refuge in which I had been accommodated had been managed by the same Housing Association as the one managing the refuge secured for me by the Council in this District.

(d) Did you encounter any problems while at the refuge in another part of the country? A member of staff had been slow at doing things and I had asked for support from another member of staff; the manager of the accommodation, who was also the manager of the accommodation secured for me by this Council, had accused me of being racist in relation to the issue; she had not acted professionally in relation to the matter.

(e) Have you encountered any problems with the staff of other agencies with which you have come into contact? No.

(f) How many times did your partner stay overnight at the accommodation provided for you by the Council? A few times.

(g) You claim that the staff at the accommodation bullied and intimidated you; is it not true that you asked to be seen by them in pairs rather than on a one to one basis, which might have been less intimidating? Yes, I did not want to see one of the staff alone as I did not trust her.

(h) Is it true that you were offered privately rented accommodation but did not accept it? I requested such accommodation when at the refuge.

(i) Were you not offered privately rented accommodation when you were previously accommodated at the refuge in another part of the country? No.

(j) Did you encounter any difficulties whilst at the refuge in another part of the country? Only the issue previously referred to when it was suggested I was a racist.

(k) In relation to the complaint which you made about another resident allowing a man into the accommodation, you have said that you did so in her interests; can you explain what you mean? It was difficult for me to make a complaint about a friend but, in the view of the arguments which I overheard and from my previous experiences of domestic violence, I was concerned about her welfare and the effects it was having on me and my children; the staff were aware of the situation but were not taking any action.

(l) Were you surprised that men were allowed to stay overnight at the accommodation? Yes.

(m) Why were you using a different flat from the one you had been allocated? There was a problem with the gas in my flat and the resident of the other flat was a friend; we supported each other despite the staff at the accommodation telling us not to trust other residents.

(n) Was it common for men to be allowed to stay in the accommodation overnight? In relation to the complaint which I made, the man was living at the accommodation; the staff were aware of this but took no action.

(o) What reason was given for the eviction of the resident you complained about? Breaking of the house rules by allowing a man into the accommodation; there was also another resident who allowed a man to stay at the accommodation overnight and, although the staff were aware, they took no action.

(p) Are staff present at the accommodation overnight? No, there are no staff present at night or at weekends; some weekdays they are not present.

(q) You have confessed to breaking the house rules and were aware of the consequences; why do you think an exception should be made in your case? The man I allowed into the accommodation has been known to me for 20 years and he presented no danger to other residents of the accommodation.

(r) Is it true that you also broke the house rules by bringing a pet into the accommodation? Yes, I acquired a cat as a birthday present but my mother collected it when my attention was drawn to the breach of the house rules.

(s) How many times did your partner stay at the accommodation overnight? A few times, but he did not live there; the safety of other residents was not compromised as I was aware he was not violent.

(t) You say that you had to put up with "attitude" from the staff of the accommodation; can you explain what you mean by this statement? It is the way someone looks at you and talks to you.

(u) Did you have an argument with the staff? Yes, and afterwards they were difficult with me and dealt with me in an unprofessional way.

(v) Did you read and sign the document which has been submitted to the Panel as your confession of breaking the house rules? No.

(w) What was the reason you were accommodated at refuge accommodation? I had been subjected to domestic violence.

(x) Did you not expect the rules at the accommodation to be strict in view of the nature of the accommodation? Yes, but I also expected the staff to be sympathetic to the residents and they were not.

(y) Do you accept that you broke the house rules? Yes, but only after I got blamed by the staff at the accommodation for the eviction of another resident.

(z) Why do you consider that your depression became worse after you made the complaint about another resident at the accommodation? My psychiatrist has advised me that I cannot handle blame; the staff blamed me for the eviction; I only broke the house rules after I had been blamed for the eviction; at that time I needed support from the staff but this was not forthcoming.

(aa) Is the document submitted to the Panel as your confession to breaking the house rules accurate? No, it states that I was drunk, but this is not true; words were put into my mouth.

(bb) When you were at a refuge in another part of the country, was it staffed at night and weekends? Not at nights and I don't think it was staffed at weekends.

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

(a) the applicant was aged 27 and the other members of her household included her son aged 9 and her daughter aged 5; the applicant had originally approached this Council as homeless while she had been living in a women's refuge in another part of the country having fled domestic violence; the applicant had approached this Council after she had been living in refuge accommodation for three months; the applicant had made a statutory declaration in which she had given an account of the domestic violence she had experienced; she had been punched and kicked by her partner and on one occasion he had been arrested for committing actual bodily harm against her;

(b) the applicant had moved into accommodation secured for her by this Council on 20 November 2009 and had subsequently been accepted by this Council as statutorily homeless (owed the full housing duty under Section 193 of the Housing Act 1996 as amended); the accommodation secured for the applicant by this Council provided self-contained accommodation for victims of domestic violence, many of whom had previously been occupying shared refuge accommodation elsewhere in the country; the house rules of the accommodation secured for the applicant by this Council had restricted personal visitors to the scheme for the safety of the women residing there; due to the risk of harm that many women faced who had fled domestic violence, the rule about visitors was strictly enforced;

(c) on 3 May 2010 the applicant had received notice from the Housing Association managing the accommodation, following a breach of the house rules by allowing a male visitor to stay overnight and permitting her family to visit;

(d) if the applicant had not breached the house rules she would have been able to continue residing at the accommodation until this Council had offered her

permanent Council or Housing Association accommodation and discharged its duty to her as a homeless person;

(e) the applicant had admitted to staff at the accommodation and her Homelessness Case Officer that she had met with a male visitor and her family at her flat in the accommodation; the applicant had presented medical evidence which stated that she had anxiety and depression which led to her feeling isolated and lonely whilst at the accommodation secured for her by the Council; advice had been sought from the Council's Medical Adviser on the medical information provided by the applicant; it had been concluded that the applicant had been capable of managing her affairs;

(f) after the applicant had left the accommodation secured for her, the Council officers had considered whether the duty to accommodate the applicant should be discharged on the basis that she had become intentionally homeless; the applicant had been provided with bed and breakfast accommodation as an interim measure and had been advised that the duty to accommodate her had been discharged because she was considered to have made herself homeless intentionally; as a result the Council no longer had a duty to provide the applicant with temporary accommodation under Section 193 of the Housing Act 1996 as amended and she had been informed that she was required to vacate the bed and breakfast accommodation which she had been provided with; the applicant had sought a review of that decision and the Council had exercised its discretion to continue to accommodate her pending the outcome of this review;

(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 they deliberately did or failed to do anything in consequence of which they ceased to occupy accommodation (or the likely result of which was that they would be forced to leave accommodation); and that the accommodation was available for their occupation and it would have been reasonable for them to continue to occupy the accommodation; the Code of Guidance (14.17(vii)) stated that, under Section 193(2) of the Act, the Council would also cease to be subject to the duty (to accommodate) if the applicant became homeless intentionally from accommodation made available under Section 193 (temporary accommodation);

(h) it was considered that the breaches of the house rules at the accommodation secured for the applicant by the Council were deliberate acts by the applicant; whilst the applicant had breached the house rules by meeting with family at the refuge, the most serious act which the applicant had carried out had been meeting with her partner at the accommodation and allowing him to stay in her flat overnight on more than one occasion; the applicant had been aware of the house rules and had understood that she was not allowed to meet with a male visitor at her flat; in addition the applicant had occupied another refuge before moving to the accommodation secured for her by this Council and had been made aware then of the need not to meet with visitors for her safety and for the welfare of other residents; the applicant had admitted to the acts she had carried out in meeting with a male visitor at her flat and had been aware that she could have placed herself and other residents at risk of harm; in consequence of these breaches of the house rules, the applicant had been served with notice and she had ceased to reside at the refuge; the applicant's accommodation at the refuge would have continued to be available for her occupation had she not repeatedly broken the house rules; it was considered that it would have been reasonable for the applicant to continue to occupy her accommodation at the refuge, as it had been a two-bedroom self-contained flat with

support available from on-site Housing Association staff; consideration had been given as to whether the applicant had resided at refuge-type accommodation overall for an unreasonable amount of time, given the restriction on visitors and taking account of case-law and, in particular, the case of Moran –v- Manchester City Council and Secretary of State for Communities and Local Government (2008) HLR39; the applicant had spent eight months in refuge-type accommodation when she had received notice; it was not felt that this was an excessively long period of time to have spent in refuge-type accommodation, considering that a majority of the time had been in self-contained accommodation when she could have met with family and friends outside of the scheme; the restrictions imposed on the applicant's lifestyle whilst she had resided at the accommodation had been for her own protection and were clearly reasonable given the risk to the applicant's safety;

(i) the Panel was invited to uphold the officers' decision; in the event that the decision was upheld reasonable notice should be given to the applicant to vacate her bed and breakfast accommodation and, subject to her consent, referral should be made to Children and Family Services in order that the provisions of the Children Act 1989 could be applied.

(j) the following comments were made by the Assistant Housing Options Manager (Homelessness) in response to the submissions made by the applicant at this meeting:

(i) in relation to the allegation made by the applicant that she had not received sufficient support from staff at the accommodation secured for her by this Council, she had received at least four support sessions with officers and the applicant's file contained documents which clearly supported this fact; the applicant had been assisted in registering with a GP; she had received assistance in completing benefit forms and arrangements had been made for the making of a statutory declaration with solicitors; the Housing Association which managed the accommodation had also managed the refuge in which the applicant had been previously accommodated; the applicant had alleged that there had been problems with staff at that previous accommodation, but if this had been the case it was difficult to understand why such staff had assisted her in moving to new self-contained accommodation; the accommodation which had been secured for the applicant by this Council had been assessed independently by an inspection team from Essex County Council and had been rated very high in relation to the quality of support provided.

(ii) in relation to the allegation made by the applicant that she had been bullied by the staff, there had been no written evidence submitted to support this claim; the letter written by another resident in support of the applicant regarding an incident with staff at the accommodation had not been dated and had not referred to a date of the alleged incident; it was possible that the letter referred to an occasion when the applicant had interrupted a meeting between staff and another resident; on another occasion, when it had been alleged that the staff had been abrupt, it had been in response to swearing and shouting by the applicant; in summary, the claim of bullying had not been substantiated;

(iii) in relation to the submission that the applicant's complaints had not been dealt with properly by the Housing Association, the attention of the Panel was drawn to the letters from the Housing Association, contained within the agenda pack, which dealt with the complaints in detail;

(iv) in relation to the submission that the applicant had been blamed by staff at the accommodation for causing the eviction of another resident, it was a fact that the applicant's complaint had been investigated by the refuge's Manager and had led to

the eviction of a resident; once the complaint had been drawn to the attention of staff it had been necessary for subsequent action to be taken; the applicant's evidence had only been part of the evidence used in relation to the eviction and other evidence had also been applicable; no evidence had been submitted by the applicant that staff at the accommodation had blamed her for this eviction; reference to it in conversations had been made purely as a matter of fact;

(v) in relation to the submissions that staff had allowed other residents to have men to stay at the hostel, it was quite clear that, in relation to the three cases where evidence had been obtained, all three residents had been evicted for breaching the house rules; it was necessary to gather evidence before evicting any resident and this process took time; it may have appeared to the applicant and other residents that no steps were being taken, as they could not be advised of this fact due to data protection considerations; this submission was contrary to the submission made by the applicant that she had been blamed for getting another resident evicted.

The Assistant Housing Options Manager (Homelessness) and the Manager of the accommodation answered the following questions of the applicant, the applicant's mother and members of the Panel:-

(a) The applicant's mother telephoned you to advise you of breaches of the house rules by other residents but you were not interested and suggested that the Manager of the accommodation should be approached; why were you not more helpful? The Assistant Housing Options Manager (Homelessness) confirmed that he had spoken to the applicant's mother and that she had outlined the issues to him; he stated that he had advised her to speak to the Manager as the most appropriate person to raise these issues with and she had said that she had attempted to do so without success; he further stated that he had advised her to persevere and eventually she had spoken to the Manager who was responsible for investigating such allegations.

(b) Is the Council's Medical Adviser qualified to comment on mental health issues? The Assistant Housing Options Manager (Homelessness) stated that the qualifications of the Council's Medical Adviser were set out in the letter of advice contained with the documents before the Panel; in providing that advice, as usual the Medical Adviser had taken account of the views of the applicant's GP; the applicant had not submitted any written evidence from a psychiatrist.

(c) What do you mean by saying that the applicant was able to manage her affairs? The Assistant Housing Options Manager (Homelessness) stated that the applicant was able to look after her children and to undertake normal day to day activities; the Council's Medical Adviser could only comment on evidence which was provided by the applicant's professional medical advisers; as no evidence had been submitted on the applicant's behalf by a psychiatrist this was not something which could be taken into account.

(d) Is it correct that staff are not available 24 hours a day 7 days a week at the accommodation secured for the applicant? The Manager of the accommodation advised that the accommodation comprised five self-contained flats; it was normally staffed from 8.00 a.m. until 6.00 p.m. Monday to Friday, although on occasions due to training sessions, staff were not always present throughout that period; the accommodation was covered by CCTV; as Manager it was necessary to divide time between this accommodation and another refuge managed by the Housing Association; whilst at the previous refuge accommodation, the applicant had asked for a different support worker and had requested someone who had grown up in the same area as her and shared the same culture; whilst at that accommodation the

applicant had sought private rented accommodation which had been refused; the applicant had stated that she wished to have self-contained accommodation and following her approach to this Council it had been possible to achieve this request; the applicant had been taken to the refuge in this District to view it and had liked the accommodation; the previous accommodation had been subject to a licence agreement, whereas the accommodation secured for the applicant by this Council at the applicant's second refuge had been subject to an assured shorthold tenancy agreement; on arrival the applicant had been taken through the house rules of the accommodation; staff at the accommodation were subject to many policies including ones relating to confidentiality and whistle blowing; if an incident was witnessed on CCTV it would be documented and pursued; investigations sometimes took a long time before formal steps could be taken; in emergencies, staff were available on call 24 hours a day; in addition there was a public telephone in the accommodation which was available to residents; as well as staff presence and CCTV, occasional spot checks, were undertaken which were not made known in advance to residents; as a result of such spot checks, breaches of house rules sometimes came to light; in view of the type of accommodation it was necessary to treat all complaints very seriously and to pursue them, subject to sufficient evidence being available.

(e) The applicant has stated that men were in residence at the property; is there any evidence of this submission? The Manager stated that this was not true. CCTV evidence showed that, over a period of time, some residents had received visitors in breach of the house rules but there was no evidence of any visitors residing at the accommodation; the spot checks which were undertaken would have been likely to reveal any unauthorised occupation.

(f) The applicant's mother has suggested that you should have provided more help when she telephoned you; on reflection do you agree with this submission? The Assistant Housing Options Manager (Homelessness) said that, if she had approached him again he would probably have spoken to the Manager of the accommodation; however the applicant's mother had been able to speak to the Manager; as the Manager had been responsible for two schemes at the time she had not always been present at the accommodation in this District and he would have expected the applicant's mother to persevere in seeking to speak to the Manager before expecting me to become involved, as it was the Housing Association which was responsible for managing the accommodation.

(g) Is the manager of the accommodation a qualified Social Worker? The Manager advised that she was a qualified Social Worker.

(h) Do all residents at the accommodation have their own flat? The Manager advised that they did and that they were responsible for paying all utility bills; the accommodation provided was such that residents were not made to feel that they were under 24 hours supervision; until the last few months there had been no issues regarding the breaking of house rules; however staff had become aware of an emerging pattern regarding visitors and, following discussions with residents and Council officers, notices of eviction had been served on three residents; in the majority of supporting housing schemes, staff were not available 24 hours a day 7 days a week as this was too expensive, and not covered by Supporting People funding.

(i) Is it normal for a woman to be a resident of a refuge for as long as eight months? The Manager stated that eight months was not considered a long period; some residents had stayed at the accommodation in this District for a year and, in the Housing Association's other refuge in London, some had been resident for 18 months.

(j) Do you not agree this is a long time to be deprived of company especially for someone with children? The Manager stated that when the accommodation in this District had first opened approximately five years ago there had been a rule that no visitors were allowed; as a result of representations from residents it had been agreed approximately three years ago that the mother of a resident would be allowed to visit during times when staff were present; however other relatives, partners etc were not allowed to visit.

(k) Can you clarify the incident regarding the applicant bringing a cat into the accommodation? The Manager stated that a member of staff had been coughing violently for sometime for no apparent reason; when knocking on the applicant's flat door on an occasion, a cat had been seen running away and this had appeared to be the reason for the coughing as the member of staff had an allergy to cats; the house rules prevented pets from being kept at the accommodation.

(l) The rules appear to be strict, do you agree? The Manager stated that the house rules were in place for the safety of residents; it was imperative that a resident's address did not become known to those who had been responsible for abusing them in the past.

The Chairman asked the Assistant Housing Options Manager (Homelessness) if he wished to raise any further issues in support of his case. He stated that the applicant had been aware of the house rules, had accepted the rules, had breached the rules and that the Council's duty to accommodate her had been discharged because she had become homeless intentionally from accommodation made available to her under Section 193 of the Act.

The Chairman asked the applicant if she wished to raise any further issues in support of her case.

The applicant stated that staff at the accommodation had not attended four meetings at the times arranged, and had not viewed the CCTV on a regular basis. Even the Police had been unable to contact staff in an emergency. An attempt had been made to withdraw the complaint made against another resident but staff had refused to accept withdrawal. The staff had given an assurance that the applicant's name would not be mentioned in relation to the complaint but they had not kept to this assurance. There had been a breakdown of trust with the staff at the accommodation. The applicant had been housed in refuge-type accommodation for 11 months in total. This was a long time to be in such accommodation with young children. It was difficult to keep a location secret. It had taken months to evict residents for breaching the house rules and it was unfair on other residents who were aware of breaches to be unaware of the steps being taken in relation to the breaches. It was not possible for the applicant to visit her mother because her mother lived in the locality where the father of one of the applicant's children was now thought to be living.

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, her mother, Councillor Gode, the Assistant Housing Options Manager (Homelessness) and the Manager of the refuge accommodation then left the meeting.

In coming to its decision the Panel focused on the evidence regarding the applicant's breaches of the house rules at the temporary accommodation secured by the Council; the length of time the applicant had spent both in the women's refuge

secured by the Council and the previous women's refuge where the applicant had lived; the court judgement on the case of Moran –v- Manchester City Council and Secretary of State for Communities and Local Government (2008) HLR39 and whether it would have been reasonable for the applicant to have continued to occupy the accommodation; the reasonableness of the conditions/restrictions applying to occupation of the accommodation secured for the applicant by the Council; whether the accommodation would have continued to have been available to the applicant; medical evidence submitted in support of the applicant's application; and the views of the Council's Medical Adviser on the medical evidence submitted in support of the application.

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 was homeless intentionally from temporary accommodation provided by the Council and that as a result the duty on the Council to provide her with accommodation has been discharged be upheld for the following reasons:

(a) the assured tenancy agreement for the temporary accommodation secured for the applicant by the Council clearly states that failure to follow the house rules may result in an occupier being asked to leave the accommodation; the evidence shows that the applicant was fully aware of the house rules; the evidence also shows and the applicant admitted that she had allowed a male visitor and members of her family into the accommodation and her flat on several occasions, in breach of the rules requiring that she should not give the address of the accommodation to any person and that she must not have any personal visitors in the accommodation (apart from her mother, during weekday office hours);

(b) the rules of the temporary accommodation are necessary for the safety and welfare of all of the occupiers; allowing a male visitor into the accommodation and permitting him to stay overnight on more than one occasion is a particularly serious breach of the house rules, and could, potentially place the safety and welfare of the applicant and other residents at risk;

(c) account has been taken of the reasons given by the applicant for allowing visitors into the accommodation, namely:

(i) she felt depressed and needed support - the applicant stated that she felt she did not receive adequate support from the staff and that they were unhelpful, blamed her for the eviction of another resident and bullied her; the Panel has given weight to the written evidence about these matters including the outcome of an investigation into a complaint by the applicant to the Housing Association responsible for managing the accommodation; account has also been taken of the evidence provided in relation to support sessions between the staff and the applicant; whilst partly as a result of a complaint by the applicant another resident was evicted from the accommodation for breaching the house rules it is not considered that the staff blamed the applicant for this situation – in subsequent discussions they simply referred to the

applicant's actions as a matter of fact; on balance, it is concluded that an adequate level of support was available to the applicant and that the applicant was not bullied by staff at the accommodation; account has also been taken of the medical evidence submitted on behalf of the applicant by her GP and the advice of the Council's Medical Adviser on the GP's evidence; although it is clear the applicant suffers from anxiety and depression it is noted that the condition is not apparently such as to necessitate specific medication and no evidence has been submitted from a psychiatrist or from mental health services locally;

(ii) the staff at the accommodation were aware of other residents having visitors in breach of the house rules but, from the applicant's point of view, took no action – whilst it may have appeared that no action was being taken, the Panel heard and accepted that staff were investigating alleged breaches of the house rules by other residents and were taking steps in relation to these breaches; such investigations take time and ultimately these led to two other residents being evicted from the accommodation; in any event, it is not considered that a serious breach of the house rules by one resident justifies another resident taking the same action;

(d) account has been taken of case-law including the case of Moran –v- Manchester City Council and Secretary of State for Communities and Local Government (2008) HLR39; it is not considered that the applicant had resided in refuge-type accommodation for such a period of time, beyond which it would have been unreasonable for her to have continued to occupy the accommodation, having regard to the issues referred to by the courts in this case and, in particular, the restrictions imposed on the applicant through the house rules - she had been in such accommodation for a period of only 8 months when she received notice; the majority of this time (over 5 months) was in self-contained accommodation secured by the Council and, during that time, the house rules were not so restrictive as they allowed her to meet with family and friends outside of the accommodation;

(e) the applicant's mental illness is not considered of a severity such as to have caused any significant aberration of mind at the time of breaching the house rules, nor preventing her from understanding the implications of her actions; no other evidence has been submitted which indicates that the applicant is incapable of managing her affairs;

(f) it is considered that the breaches of the house rules by the applicant were deliberate acts; prior to being accommodated by this Council the applicant had previously occupied a refuge and had been well aware of the need not to allow visitors to the accommodation for her safety and the welfare of other residents; these restrictions were similar to the house rules explained to the applicant when she commenced occupation of the accommodation secured by the Council; had it not been for these deliberate acts it is considered on the evidence that the temporary accommodation would have continued to be available for the applicant's occupation; it is also considered that the accommodation would have been reasonable for the applicant to continue to occupy, as it had been a two-bedroom self-contained flat with support available on site from Housing Association staff at an affordable rent;

- (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;
- (3) That the Council continues to provide interim accommodation for the applicant for a period of six weeks from the receipt of this decision letter, in order to allow her to secure alternative accommodation; and
- (4) That with the agreement of the applicant, the officers refer the applicant to Children and Family Services to seek their assistance to helping the applicant find alternative accommodation.

21. PROGRESS REPORT ON PREVIOUS APPEALS/APPLICATIONS

The Panel considered a progress report on previous appeals/applications.

RESOLVED:

- (1) That the progress report on previous appeals and applications be noted; and
- (2) That cases 7/2010, 4/2010, 3/2010, 2/2010 and 1/2010 be deleted from the schedule.

CHAIRMAN