

11. APPEAL NO. 12/2005

The Panel gave further consideration to an appeal against the decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority that the appellant had become intentionally homeless. It followed the Panel's consideration at a meeting on 25 May 2005 at which they had expressed concern about allegations made by the appellant regarding the NACRO House Manager. At that time they had decided to allow the House Manager an opportunity to answer matters which had been raised by the appellant at that meeting and members had formulated questions for NACRO which they felt needed to be answered before they could determine the appeal.

At the meeting on 25 May 2005 they had agreed that it would not be necessary to re-hear all the circumstances of the case but to just ask questions of the House Manager. It had been agreed that the appellant should also be given the opportunity to ask the House Manager questions.

The appellant attended the meeting to present her case accompanied by her father. Mr R Wallace, Assistant Housing Needs Manager (Homelessness) attended the meeting to present the Council's case together with representatives of NACRO including the House Manager. Mr A Hall, Head of Housing Services attended the meeting to advise the Panel as required on legal issues and details of the National Local Housing Policies relative to the appeal.

The Chairman introduced members of the Panel and officers present to the appellant and her father and reminded them as to the stage of the appeal. Members had before them:

- (a) The minutes of their meeting on 25 May 2005 on which the appeal had originally been considered;
- (b) A report outlining the current position together with indication of the questions had been formulated to ask the representative of NACRO;
- (c) An abstract of an Action Log and record of complaint by the appellant from NACRO dated 6.8.04 (tabled at the meeting);
- (d) A proforma letter from NACRO to the appellant dated 19.8.04 in relation to a missed appointment (tabled at the meeting);
- (e) A letter of NACRO to the appellant dated 12 November 2004 in relation to a meeting to discuss tenancy and support plan review (tabled at the meeting).

The Chairman confirmed that both parties had access to the questions prior to the meeting, both confirmed yes.

In response to the questions of the Panel the representative of NACRO stated the following:-

- (1) It was the policy of NACRO that all tenants had to apply for transfer and the criteria was that they had to maintain 3 months with no arrears or any problems and took up support provided to them. The appellant had arrears and had admitted to not staying at the property and had been found at the sister's address in Epping. The appellant had not attended key worker sessions.

(2) Information relating to transfers was supplied at interview. Records of these were not available at the meeting. Normally there were many meetings and support meetings and there was an internal process to be followed in connection with transfers and no promises had been made on transfer to the appellant. It was noted that although notes were taken at these meetings undertakings would have been written down through a Support Plan or Key Work Notes.

The Panel queried that if the appellant had not been attending the meetings how did NACRO enforce the conditions if they were not written down. The representative from NACRO restated that it was only reiterated at meetings and there had been a breakdown in attending these meetings.

The Panel queried whether there were any written records and the need to adhere to correct the conditions of the tenancy and how this information had been given to the appellant.

The representative of NACRO stated that notes were made of Key Worker Sessions, other written documents were available to support this and there had been latterly no meetings as the appellant had not attended the sessions.

(3) The NACRO House Manager reported that she had not given a promise of transfer or withdrawn one as the appellant had not attended the meetings over a 3 month period. The Panel were reminded that conditions of tenancy were contained the Tenancy Agreement.

(4) The House Manager for NACRO reported that the appellant had failed to sign on following her starting part-time work this had affected her Housing Benefit Claim. The NACRO House Manager explained to the Panel about full liability in respect of Housing Benefits. The benefit had changed because of the failure of the appellant to advise the Benefits Agency of changes to her circumstances.

The Panel queried whether NACRO had contacted the appellant or Housing Benefits. The House Manager responded that they had contacted the appellant by phone to ask for information to be provided to the Benefits Agency.

(5) In connection with Key Work Meetings the NACRO House Manager said it was a policy to have weekly appointments for support. The appellant had not confirmed a regular spot for her sessions as she was not always at the property. The appellant claimed a lack of fares money and did not retain food in cupboards at the NACRO house. The appellant had only attended 5 meetings and had not attended the 3 month review meeting to discuss her tenancy. The letter of 12 November 2004 was circulated in relation to this meeting.

(6) It was noted that the House Manager had been unable to attend one session due to sickness and this had been explained following her return to work and apologised for. The Panel asked whether anyone else would normally have attended that interview instead. The House Manager responded normally yes they would but at that time they were short staffed.

(7) In terms of general support the NACRO House Manager said that they would have put forward a Support Plan and this included a shopping trip and trip to the college. This had not been carried out by the appellant. Staff had rarely seen her at the Loughton property and staff were always available to people staying at that property. The NACRO House Manager indicated problems with the appellant's parents and the expectation that NACRO would provide parental support to the appellant. A letter of 19 August 2004 was circulated for members' consideration.

(8) A complaint had been made by the appellant following an incident with the appellants boyfriend and another resident at the Loughton property. A meeting to discuss this had been arranged but the appellant had not attended. The complaint had not been followed up and the father had been called on the issue. An abstract of the Complaints Sheet dated 6.8.2004 was circulated for members information.

The Panel asked in what circumstances had the sister of the appellant been transferred to Epping. The NACRO representative stated that the appellant's sister had been moved to Epping following an assault.

The Panel queried where there was a policy of keeping siblings together. In response the NACRO representative House Manager stated that yes if possible but it depended on availability and criteria;

(9) In terms of other instances being threatened by other residents the NACRO House Manager was aware of an issue with a tenant who had got annoyed at the appellant because of inappropriate or suggestive behaviour by her. The NACRO House Manager stated that the father had considered this incident to be exaggerated and there had been no other incidents;

(10) The NACRO House Manager stated that she was unaware of any other unreasonable requests being made of the appellant by other residents of the Loughton house;

(11) It was noted that the NACRO representative stated that there was documented evidence on the support they had given to the appellant and no complaints had been made about the House Manager and in any event these would have been investigated by the Manager. The appellant had been found to be uncooperative and hostile.

(12) The NACRO House Manager stated that the appellant had never made anyone else aware of complaints against her and that the lounge within the Loughton property was for tenants use.

The Panel heard the following questions by the appellant's father of the NACRO House Manager:-

(1) A meeting had been held at Social Services in Epping where it had been stated that if the appellant had "towed the line" she would be allowed to be transferred to the Epping accommodation. If the appellant was working fulltime how was she expected to attend meetings with her NACRO Support Officer?

In response it was stated that the NACRO House Manager did undertake late shifts at which time meetings could be arranged.

(2) As the appellant was informed of such meetings by a note under her door and she was not living there how would she become aware of them?

In response the NACRO House Manager stated that the tenancy stated that each tenant should stay at least 5 nights per week at the property.

(3) Housing Benefit stated that they knew nothing of the appellant's case and there were no notes made of any of the meetings and on two occasions he had driven the appellant to the Key Worker Meetings and the Key Working had not been present.

The NACRO House Manager stated that there had been one such occasion but sometimes there were other emergencies that required her attention.

(4) The appellant's father stated that there had been two occasions where she had not attended and this was not support and given the threat to the tenancy it was not acceptable. In response the NACRO representative stated that they were only aware of one incident in August and that the appellant could have approached other staff.

(5) The father stated that given that the NACRO House Manager had been the "face" of NACRO he was not confident about the treatment they were receiving he asked when an Epping place had become available why the appellant had not been considered.

In response it was stated there were reasons why places were not eligible for internal transfer and that the appellant was continually breaking her tenancy in Loughton by staying at Epping.

The Panel asked whether they had considered why the appellant was not staying at the Loughton property. In response it was stated this would have been done at meetings where support would have been given.

The Panel asked where evidence of calls and letters in relation to these meetings were. In response it was stated that these were not present at the Hearing.

(6) The appellant's father asked for clarification that the appellant had attended 5 meetings after the meeting with Social Services. In response the NACRO House Manager stated that no, the appellant had attended 5 sessions over a 6 month period.

The Panel noted the following questions made by officers to the representative of NACRO:

(1) The Assistant Housing Needs Manager asked whether it was a requirement of the tenants to reside at the property to pay accommodation charges and regularly attend Support Service Sessions and to have a signed Tenancy Agreement. In response - NACRO House Manager stated yes.

(2) The Assistant Housing Needs Manager asked whether it was a breach of benefit if the appellant failed to reside at the property. The NACRO House Manager stated yes.

(3) The Assistant Housing Needs Manager asked whether an effort had been made to readjust key worker sessions if they were not working. The NACRO House Manager stated yes they had been rearranged for Wednesday evenings.

The Panel asked at what age the appellant had been when she first signed the tenancy. In response it was noted she had been 16 at the time.

The Chairman then thanked parties for attending the meeting and indicated that the Panel would consider the appeal in the absence of both parties. The appellant, the appellant's father, officers and representative of NACRO would be advised in writing of the outcome. The appellant her father, representative from NACRO and officers then left the meeting.

In private session the Panel expressed concern that insufficient support had been given to the appellant to enable to sustain a tenancy given her age and the wish for the appellant to be with her sister in Epping and that the appellant had not been living in the property, this had prevented the team explaining the situation with her tenancy. As such they considered the appeal should be allowed.

The Panel, having regard to all the evidence before it therefore concluded that the appellant had not made herself intentionally homeless.

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 appellant and by the Assistant Housing Needs Manager (Homelessness), in writing and orally, the appeal be allowed and the decision of the Assistant Housing Needs Manager (Homelessness) that the appellant had become intentionally homeless, be not upheld for the following reasons:

(a) The Panel considered that insufficient support had been given to the appellant by NACRO to sustain her tenancy, given her age;

(b) The Panel were not satisfied that Panel had made proper efforts to maintain contact with the appellant given:

(i) Knowledge of the appellant's wish to be with her sister; and

(ii) That the appellant was not living at the property and that this prevented their team explaining the situation with her tenancy; and

(c) The Panel considered there were exceptional reasons that the appellant should have been considered for a transfer.

CHAIRMAN