

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Housing Appeals and Review Panel  
**Date:** 17 June 2010  
22 July 2010  
9 September 2010

**Place:** Committee Room 2, Civic Offices,  
High Street, Epping  
**Time:** 2.30 - 4.20 pm  
2.00 – 2.05pm  
1.35 – 2.45pm & 5.10 –  
5.20pm

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

**Other Councillors:** None

**Apologies:** Mrs C Pond

**Officers Present:** A Hall (Director of Housing), J Hunt (Assistant Housing Needs Manager) and G J Woodhall (Democratic Services Officer)

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### **1. MINUTES**

#### **RESOLVED:**

(1) That the minutes of the meeting held on 22 April 2010 be taken as read and signed by the Chairman as a correct record; and

(2) That the minutes of the meeting held on 26 April 2010 be taken as read and signed by the Chairman as a correct record.

### **2. SUBSTITUTE MEMBERS**

The Panel noted that Councillor Mrs J Hart was substituting for Councillor Mrs C Pond.

### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

### **4. EXCLUSION OF PUBLIC AND PRESS**

#### **RESOLVED:**

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
6	Application No. 5/2010	1

## 5. APPLICATION NO. 5/2010

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 to present her case with a relative for support, the Assistant Housing Options Manager (Homelessness) attended the meeting to present the Council's case, whilst the Director of Housing was in attendance to advise the Panel if required on details of the national and local Housing Policy applicable to the case. The Chairman introduced the Members of the Panel and Officers present to the Applicant, before outlining the procedure to be followed in order to ensure that proper consideration was given to the case.

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

- (i) a summary of the case, including the facts of the case, and an outline of the homelessness legislation;
- (ii) the case of the Assistant Housing Options Manager (Homelessness);
- (iii) copies of documents submitted by the Assistant Housing Options Manager (Homelessness):
  - a letter from the Letting Agent to the Council indicating that the Applicant had incurred rent arrears in excess of two months and requesting that the Applicant's Housing Benefit be paid direct to the Letting Agent;
  - the notice served on the Applicant to quit the property dated 25 September 2009;
  - an email from the Letting Agent confirming the reasons why the Applicant was served notice to quit the property;
  - the Interview Report with the Applicant by a Housing Officer dated 26 March 2010;
  - an email from the Letting Agent indicating the rent arrears outstanding when the Applicant vacated the property;
  - a letter from the Assistant Housing Options Manager (Homelessness) dated 30 March 2010 to the Applicant outlining the Council's initial decision upon the Applicant's homelessness; and
  - a copy of the Applicant's Appeal Application form dated 5 May 2010.

### Presentation of the Applicant's Case

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

- (i) the Applicant admitted that she had occasionally been late in paying her rent but had not incurred the arrears alleged by the Letting Agent;
- (ii) no rent book had been provided by the Letting Agent to the Applicant;
- (iii) the Applicant had acquiesced with the Landlord to get her Housing Benefit paid direct to the Letting Agent, despite not being the eight weeks in rent arrears alleged in the letter to the Council dated 14 January 2009 (Appendix I of the report);
- (iv) the Letting Agent had informed the Council that the Applicant's rent was being increased in order to obtain more Housing Benefit from the Council in May 2009, although the actual rent for the Applicant was not increased;
- (v) the Applicant highlighted that her tenancy had been renewed for a further six-month period in May 2009, which surely would not have happened if she had accrued the rent arrears claimed by the Letting Agent;
- (vi) the Applicant stated that the condition of the property when she moved in was very poor with a promise from the Letting Agent to undertake full repairs within six months of the Applicant moving in, but these were not carried out;
- (vii) the Applicant advised the Panel that the complaints about noise and other matters mentioned by the Letting Agent were malicious and actually emanated from the property behind theirs;
- (viii) the Applicant had been promised a suitable period of time in which to find alternative accommodation by the Letting Agent, but the Landlord went ahead and served a notice to quit on her; and
- (ix) the Applicant felt that, through her naivety, she had been the victim of an unscrupulous Landlord and Letting Agent, and had now been prescribed anti-depressants by her Doctor following this incident.

Questions from the Assistant Housing Options Manager (Homelessness) on the Applicant's Case

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

- (i) the Applicant had not accrued any rent arrears during her time at the property, although it was acknowledged that the rent was sometimes paid after the due date;
- (ii) the Agent had informed the Council that the Applicant was in rent arrears simply to get the Housing Benefit paid direct to the Letting Agent;
- (iii) the letter from the Letting Agent to the Council alleging the Applicant had accrued £1,500 in rent arrears had been fabricated to mislead the Council and was compiled simply to suit the convenience of the Letting Agent in getting the Applicant's Housing Benefit paid direct to them;
- (iv) the Letting Agent's bank account was at the HSBC branch in Waltham Cross, whilst the Applicant's bank account was based at the NatWest branch in North Weald, which was a bus ride away; and

(v) the Applicant accepted that she had naively cooperated with the Letting Agent's request, and that she had no written records or proof to justify her case.

Questions from Members of the Panel on the Applicant's Case

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

(i) the Applicant stated that the rent was always paid to the Agent, she had never been eight weeks in arrears and she did not have any rent arrears when she vacated the property;

(ii) the Applicant had originally asked for her Housing Benefit to be paid direct to the Letting Agent, but the Council had replied that this was not possible under the current rules;

(iii) the Applicant had never received any paperwork from the Letting Agent;

(iv) the Applicant had never received a list of proposed repairs to the property from either the Landlord or Letting Agent;

(v) the Applicant stated that as she was on benefits, it would not have been possible to repay over £1,000 of rent arrears in a period of eight months as stated by the Letting Agent;

(vi) the Agent had attempted to obtain as much Housing Benefit as possible from the Council by informing the Council that the Applicant's rent had increased;

(vii) there was a £28 shortfall between the Housing Benefit received by the Applicant and the new rent level, but the Agent never asked for this to be paid by the Applicant;

(viii) the Applicant had not spoken to the Letting Agent since leaving the property;

(ix) the Applicant believed that the rent was paid in full each month;

(x) the Applicant paid her rent in cash but no receipts were ever issued by the Letting Agent;

(xi) the Applicant had only been given two days to move out of the property and hence all the paperwork had been lost when she moved to Norway House;

(xii) the tenancy had been in joint names, the Applicant's and her former partner;

(xiii) the Applicant used to shred her bank statements as she had nowhere to file them;

(xiv) the Applicant had no other debts at the time so the Housing Benefit could be used solely for her rent;

(xv) a standing order could not be set up to pay the rent as her Housing Benefit did not get paid on the same date;

(xvi) the Letting Agent always wanted the rent as soon as the Housing Benefit had been received – when the Housing Benefit payments were late, the Applicant had to borrow the bus fare from her Mother to draw out the money from her account with

NatWest in North Weald and pay it into the Letting Agent's account with HSBC in Waltham Cross;

(xvii) the Applicant did not take any photographs of the property when she moved in;

(xviii) the Letting Agent promised that the necessary repairs would be completed within six months of the Applicant moving in – the Applicant kept complaining but the repairs were never done;

(xix) the Applicant had paid a deposit of £750 when she moved in, but it was not returned when she vacated the property;

(xx) the Applicant had not been pursued for the alleged rent arrears by the Letting Agent since leaving the property;

(xxi) the Applicant had previously lived in a one-bedroomed flat in Cheshunt with her former partner and his parents after her daughter had been born;

(xxii) the Applicant had taken the first available property near her mother as the flat in Cheshunt was too small;

(xxiii) the Applicant was not aware that she could have set up an electronic funds transfer to pay her rent; and

(xxiv) the Applicant admitted that she had accrued rent arrears at Norway House after leaving the property but these had now been paid off.

The Assistant Housing Options Manager (Homelessness) stated that a rent book was usually provided for a tenant but this was no longer in vogue due to the increasing number of payments made electronically. Confirmation would be provided after the meeting as to whether the provision of a rent book was still a legal requirement.

#### Presentation of the Council's Case

The Panel considered the following submissions in support of the case from the Assistant Housing Options Manager (Homelessness):

(i) during the period 12 May 2008 and 25 November 2009, the Applicant's income was stable and she was in receipt of Housing Benefit from the Council to pay her rent;

(ii) for the period up to May 2009, there was no difference between the rent payable and the Housing Benefit received directly by the Applicant;

(iii) the Applicant's Housing Benefit was paid fortnightly in arrears and always on the same dates each month, which would have assisted the Applicant to set up a Standing Order to pay her rent;

(iv) from 26 January 2009, the Applicant's Housing Benefit was paid directly to her Letting Agent after the Council was advised that the Applicant had accrued rent arrears (Appendix I of the report);

(v) on 12 May 2009, the Applicant's rent was increased from £750 to £820 per month and the Applicant's Housing Benefit was increased accordingly, however this resulted in a £28 difference between the rent due and the Benefit received for which

the Applicant would have been personally liable, as the Council did not agree to pay the full new rent through Housing Benefit only an increase of £42 per month;

(vi) on 25 September 2009, the Applicant and her ex-partner had received notice to vacate the property due to the rent arrears accrued and complaints about excessive noise (Appendix II of the report);

(vii) the Letting Agent had provided confirmation of the reasons (i.e. rent arrears, noise complaints and condition of the property) for the Applicant being served notice to quit the property in an email dated 28 January 2010 (Appendix III of the report);

(viii) in her interview with the Council, dated 26 March 2010, the Applicant had advised the Council that the noise complaints made against her whilst at the property were malicious, she had not accrued any rent arrears during her tenancy and the property had been in a poor condition when she originally moved in (Appendix IV of the report);

(ix) the Applicant had repeated her claim that the Letting Agent had lied about the rent arrears to obtain the Housing Benefit directly from the Council;

(x) the information available to Officers was that the Applicant had accrued rent arrears at the property of over £1,500 when the request to pay the Housing Benefit direct to the Letting Agent had been received, but that this had reduced over time to just £420 when the Applicant vacated the property (Appendix V of the report);

(xi) it was considered that this information was factual and homelessness law had been applied to the case;

(xii) It was concluded that the Applicant had made herself intentionally homeless as her refusal to pay her rent was a deliberate act which resulted in the Applicant being served notice to vacate the property;

(xiii) the accommodation was believed to be reasonable and the rent was covered by Housing Benefit for most of the period of tenancy;

(xiv) it was accepted that proof of payment was a difficult issue for the Panel to determine, however the information obtained from the Letting Agent indicated that the rent arrears accrued by the Applicant was the main reason for notice to vacate the property being served by the Landlord;

(xv) the Applicant's Housing Benefit was paid regularly on set dates and it was felt unlikely that the Letting Agent would be deceitful over the accrual of rent arrears by the Applicant;

(xvi) it was felt that, on the balance of probabilities, the Applicant was intentionally homeless;

(xvi) the Applicant was informed of the Council's decision by a letter dated 30 March 2010 (Appendix VI of the report); and

(xvii) on 5 May 2010, the Applicant had requested a review of the Council's decision (Appendix VII of the report).

#### Questions from the Applicant on the Council's Case

There were no questions from the Applicant on the Council's case for the Assistant

Housing Options Manager (Homelessness).

Questions from Members of the Panel on the Council's Case

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

- (i) nothing in writing, like a rent statement for example, had been provided by the Letting Agent to support their claims;
- (ii) the Council had had no other dealings with this particular Letting Agent;
- (iii) as no rent statement had been provided by the Letting Agent, the Council could not account for the apparent reduction in rent arrears over an eight-month period;
- (iv) the Applicant's rent was due monthly, whilst her Housing Benefit was paid fortnightly in arrears;
- (v) the Letting Agent was under no obligation to provide the Council with any information and it was for the Applicant to provide proof of payment in respect of her rent as the Council had no legal right to examine the Letting Agent's accounts or records;
- (vi) an annual increase was usually applied to rents; and
- (vii) it was speculated that the deposit paid by the Applicant could have been kept by the Letting Agent due to the state of disrepair that the house was left in.

Additional Issues raised by the Applicant

The Applicant's relative stated that the question before the Panel was who was not telling the truth – the Applicant or the Letting Agent? It was highlighted that the Landlord had offered the Applicant a six-month extension to her tenancy in May 2009, despite allegedly being £1,500 in arrears four months previously. It was not an ideal situation for the Applicant to be living in Norway House and her daughter would almost certainly be taken into care if the Applicant was found to be intentionally homeless. It was acknowledged that the Applicant had been naïve and foolish, but had not deliberately exploited the system in order to get the Council to re-house her.

Additional Issues raised by the Assistant Housing Options Manager (Homelessness)

There were no additional issues raised by the Assistant Housing Options Manager (Homelessness).

The Chairman now explained that the Applicant and the Assistant Housing Options Manager (Homelessness) would withdraw whilst the Panel considered its verdict in private. The decision of the Panel would be conveyed in writing to both parties as soon as possible after the meeting.

First Consideration of the Case by the Panel

In coming to its decision, the Panel focused on the alleged rent arrears accrued by the Applicant, which she had denied; the lack of evidence provided by either the Applicant or the Letting Agent as to whether the rent due was paid in a timely manner; the alleged acquiescence of the Applicant in allowing the Letting Agent to

receive her Housing Benefit direct from the Council and claim a rent increase that had allegedly not been applied; the alleged reduction in rent arrears of approximately £700 in a nine-month period by the Applicant, whilst living on benefits; and that the Applicant's deposit was not returned by the Letting Agent when she vacated the property.

The Director of Housing reminded the Panel that the Council did not have the authority to compel the Letting Agent to provide written documentary evidence to support their statements, and that the Applicant had not kept any records either to substantiate her case. It was suggested that the Panel might want to consider adjourning the case until their next scheduled meeting, to permit the Applicant to provide copies of her bank statements from that period, which would show whether the Applicant had paid her rent from her bank account as soon as her Housing Benefit had been received.

The Panel agreed to adjourn the case until their next scheduled meeting on 22 July 2010 to allow:

- (i) the Applicant to obtain copies of her bank statements for the period 1 May 2008 to 30 November 2009; and
- (ii) the copies to be handed into the Democratic Services Officer by 5.15pm on 15 July 2010.

The meeting was adjourned at 4.20pm until 22 July 2010.

### **Second Consideration of the Case by the Panel**

The meeting was reconvened at 2.00pm on 22 July 2010.

The Democratic Services Officer reported that a letter had been received from the Applicant stating that:

- (i) the necessary bank statements had been requested from the NatWest bank on 6 July 2010;
- (ii) however the statements had yet to be provided due to an error on the part of the bank; and
- (iii) the bank would endeavour to get the statements to the Applicant the following week.

The Panel agreed to adjourn the meeting for a second time until their scheduled meeting on 9 September to provide further time for the Applicant to supply the previously requested bank statements. The statements were now to be delivered to the Democratic Services Officer by 5.15pm on 2 September 2010.

The meeting was adjourned again at 2.05pm until 9 September 2010.

### **Third Consideration of the Case by the Panel**

The meeting was reconvened at 1.35pm on 9 September 2010.

The Panel had before them the following additional documents, which were not available at the original meeting:



- (i) bank statements from the applicant for the period 2 June 2007 to 10 March 2009; and
- (ii) an analysis undertaken by the Assistant Housing Options Manager (Homelessness) indicating the Housing Benefit received and potential rent payments made by the Applicant.

The Chairman explained that, following the receipt of the additional documents by the Panel, it was felt to be beneficial for both parties to attend to answer any further questions from the Panel. The Director of Housing reviewed the issues from the original meeting held on 17 June 2010 and offered a suggested procedure for the reconvened meeting. The Applicant was in attendance, with a relative for support, to answer any further questions from the Panel, whilst the Assistant Housing Options Manager (Homelessness) was also present.

The Assistant Housing Options Manager (Homelessness) presented an analysis of the bank statements that had been provided by the Applicant. Officers had expected to see similar amounts being paid out for rent shortly after the Housing Benefit payments had been received, but this had not been the case. Therefore, a further analysis was undertaken whereby all withdrawals for £50 or more were assumed to be for rent payments, but this had still indicated that not all the Housing Benefit payments received by the Applicant had been paid over to the Landlord in lieu of the rent. Consequently, Officers felt that this had confirmed their view the Applicant had made herself intentionally homeless through the accrual of rent arrears.

The Applicant stated that she had used monies received from other benefits, including Income Support, to pay her rent. This had allowed all her direct debits to be paid. The Applicant added that she had three separate accounts at the time: a joint account with her ex-partner; a sole account in her name; and a Savings account. It was queried why two withdrawals of £20 and £30 were not included in the analysis, even though they were withdrawn at the same time.

#### Further Questions from Members of the Panel on the Council's Case

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

- (i) the analysis performed upon the bank statements received from the Applicant did not appear to confirm the comments made previously by the Applicant;
- (ii) there appeared to be only payments that matched the expected pattern, those dated 6 October and 20 October 2008, the other payments appeared to be of a random nature and hence the assumption made by Officers when analysing the statements; and
- (iii) Officers were not aware of the Applicant's other accounts, and it would have been difficult to reconcile rent payments from more than one account.

The Director of Housing added that the Applicant had been requested to provide details of all accounts from which rent payments were made; the Applicant had only provided details of the account into which the Housing Benefit payments had been received.

#### Questions from Members of the Panel on the Applicant's Case

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

- (i) at the time, the Applicant was in receipt of the following benefits totalling £341 per fortnight:
- Jobseeker's Allowance - £198 every fortnight;
  - Child Tax Credits - £207 per month; and
  - Child Benefit - £80 per month;
- (ii) these additional benefits were paid into the Applicant's sole bank account, which she had held since she was 9 years old;
- (iii) the Applicant had statements for this account at her accommodation in Norway House;
- (iv) the Applicant was now in receipt of Income Support, £130 per fortnight, following the break up of her relationship with her partner;
- (v) the Applicant could not initially remember the joint account number as it had been closed down and the bank would not disclose the number when requested;
- (vi) the joint account number had been eventually obtained from the Council's Housing Benefit section after the Applicant had provided evidence of her identity;
- (vii) the Savings Account mentioned earlier was actually her daughter's, but it was in the Applicant's name as well due to her daughter's age – there was little or no money deposited in it, only money received by her daughter at birthdays;
- (viii) the Applicant now had a new account at a different bank, and all her benefits were paid into there;
- (ix) the Applicant currently only had two accounts, a bank current and the savings accounts referred to previously;
- (x) the Applicant could not provide any direct evidence of having made any payments to the Letting Agent, although she could provide evidence of further withdrawals from her other account;
- (xi) the Applicant was aware that it was her responsibility to provide evidence that her rent was paid in full during her tenancy; and
- (xii) the Applicant had ceased to receive Housing Benefit in January 2009 following the receipt of the letter from the Letting Agent by the Council.

Closing Statement by the Applicant

The Applicant had nothing further to add, except to remind the Panel that the Landlord and Letting Agent had provided no evidence that the rent had not been paid.

Closing Statement by the Council

The Assistant Housing Options Manager (Homelessness) had nothing further to add.

The Chairman now explained that the Applicant and the Assistant Housing Options Manager (Homelessness) would withdraw whilst the Panel considered its verdict in private. The decision of the Panel would be conveyed in writing to both parties as

soon as possible after the meeting. The Chairman thanked both parties for the additional information provided to the Panel and for attending again.

The meeting was adjourned again at 2.45pm.

The meeting was reconvened at 5.10pm.

In coming to its decision, the Panel focussed on the evidence provided by the Applicant regarding rent payments and claims for Housing Benefit and, in particular, whether the Applicant was eight weeks in arrears with her rent during her tenancy and whether she had rent arrears of £420 at the end of her tenancy. The Panel also considered statements by the Applicant that the privately rented property was not left in a poor condition and that she did not cause a nuisance during her tenancy. The Panel concluded that insufficient evidence had been provided by the Applicant to dismiss the claims of rent arrears by the Letting Agent. The Panel acknowledged that little evidence had been provided by the Letting Agent to substantiate their claims, but the burden of proof in this instance was upon the Applicant. Therefore, the Panel determined that the Applicant had made herself intentionally homeless and that the original decision of the Officers should be upheld.

#### **RESOLVED:**

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Code of Guidance on Homelessness, and having taken into consideration the information presented by the Applicant and by the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of the Officers that the Applicant became homeless intentionally be upheld for the following reasons:

(a) on the balance of probabilities, the Applicant and her partner failed to pay the rent due on the privately rented accommodation they occupied under an assured shorthold tenancy and, as a result of the arrears, they were evicted from the property; the Panel took the following into account when reaching this conclusion:

(i) between May 2008 and January 2009 the Applicant was in receipt of full Housing Benefit, i.e. there was no shortfall between Housing Benefit and the rent of £750 per month she and her partner were contractually liable to pay; however, the Panel concluded that the Applicant failed to pass on all of the Housing Benefit she received from the Council to her letting agent, resulting in arrears amounting to £1,584 by January 2009; from January 2009 the applicant's Housing Benefit was paid direct to the Letting Agent as a result of the arrears;

(ii) full rent was not paid between May 2009 and November 2009 following an increase in the rent to £820 per month (when Housing Benefit did not cover the full amount of the rent) and when the Applicant and her partner had to meet a shortfall of £28 per month; as a result, at the end of the tenancy, the Panel concluded that the Applicant had outstanding arrears of £420;

(b) the Applicant claims that she always paid rent into the letting agent's personal bank account and that there were no arrears; the Panel adjourned its meeting on 17 June 2010, to enable the Applicant to obtain such evidence; a letter was sent to the Applicant on 18 June 2010 asking her to provide bank statements relating to the bank account into which her Housing Benefit payments from the Council had been paid and, if different, the bank account from which she had withdrawn the cash to pay the rent for the period 1 May 2008 to 30 November 2009; the Applicant was asked to

provide this information before 5.15pm on 15 July 2010 but she was unable to submit any statements within that period, or indeed by the time the Panel met again on 22 July 2010 to make its decision, due to the bank being unable to provide the required information within the set timescale, which was evidenced by a letter from the Applicant, which the Panel accepted; the Panel adjourned its meeting again to allow the Applicant additional time to provide the requested documents; when the Panel met again on 9 September 2010, it had received statements from the bank account into which the Applicant's Housing Benefit had been paid; an analysis of the statements by the Officers indicated that, although a number of rent payments had been made, not all the Housing Benefit received had been passed on to the Letting Agent;

(c) a letter to the Council's Housing Benefit Section from the Letting Agent dated 14 January 2009 requesting direct payment of future Housing Benefit clearly stated that there were arrears of £1,584 at that time and that if these were not paid in full it would be necessary to serve notice requiring possession; the email from the Letting Agent to the Council's Homelessness Section dated 28 January 2010 also referred to the Applicant's arrears which arose when Housing Benefit received by the Applicant was not passed on; the Letting Agent also advised in an email to the Council dated 25 March 2010 that the Applicant had arrears of £420 when the tenancy ended; when interviewed by a Homelessness Officer, the Applicant stated that she had to go to her bank to withdraw money to pay into the Letting Agent's account, but that on occasions she had been unable to get to her bank to carry out the transaction resulting in the Letting Agent complaining; on the balance of probabilities, therefore, taking account of the evidence submitted the Panel considered that the Applicant was in arrears as stated by the Letting Agent;

(d) the Applicant stated to both a Homelessness Officer and the Panel that both she and the Letting Agent had lied to the Council's Housing Benefits Section about the rent arrears being in excess of two months (i.e. £1,584), in order that the Letting Agent could request the Council to pay the housing benefit direct to the Letting Agent, instead of the Applicant. The Panel concluded that the Applicant had either lied to the Council in the first place (stating that she had arrears), as now claimed by the Applicant, or that she had lied to the Homelessness Officer and the Panel about not actually being in arrears. Based on the lack of supporting evidence of either rent receipts from the Landlord and/or bank statements from the Applicant (after giving the Applicant a reasonable period to submit all bank statements as evidence), showing a reconciliation between the amount of housing benefit she had received from the Council and the amount of rent she paid to the Letting Agent, the Panel concluded, on the balance of probabilities that she was in arrears with her rent both during and at the end of her tenancy;

(e) whilst there were allegations by the Landlord that the Applicant and her partner kept the privately rented accommodation in a filthy condition and caused a nuisance due to noise, the Panel felt unable to take this into account in reaching a decision in view of the lack of supporting evidence regarding these claims;

(f) although the Applicant and her partner were required to meet a shortfall of £28 per month from 12 May 2009 to 25 November 2009, it is considered that this was affordable having regard to the fact that the Applicant was able to reduce her arrears from £1,584 in January 2009 to £420 in November 2009;

(g) had it not been for the deliberate acts/omissions set out in (a) above, the privately rented accommodation would have continued to have been available and reasonable for the Applicant, her partner and child to occupy, as it was a two bedroom house with the majority of the rent being met from Housing Benefit;

(h) no evidence had been submitted indicating the Applicant was incapable of managing her affairs;

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

(3) That interim accommodation be provided by the Council to the Applicant for a period of six weeks from the receipt of this letter notifying her of the Panel's decision in order to allow her to find alternative accommodation;

(4) That, with the agreement of the Applicant, the case be referred to Children and Family Services by Officers to seek their assistance in helping the Applicant find alternative accommodation.

**CHAIRMAN**