DB
FAO: Andre Cummings

Please reply to: Jeta Ibi
Civic Centre
Silver Street
Enfield
EN1 3XA

Phone: 0208 078 5901
Ref: 743*****
Date: 20.03.2023

Sent by email to: E-mail: Jeta.Ibi@enfield.gov.uk
AndreC@Duncanlewis.com

Dear Miss DB

Re: The Homelessness (Review Procedure etc.) Regulations 2018, Regulation 7 (2)

1. I write further to your request for a review of the decision that you are not in priority need dated 25th January 2023. I have considered the original decision letter and the representations on review. I note that on review your representative submitted a report from your GP Dr Ajogbe dated 26th January 2023 in relation to your mental health deteriorating due to the assault you experienced at the Goat pub, that you have been suffering an acute exacerbation of your mental health issues and you are struggling to sleep, that in light of the more recent information that you have provided, you should be treated as being in priority need of accommodation.

2. In accordance with the Homelessness (Review Procedure etc.) Regulations 2018, Regulation 7 (2); if the reviewer considers that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but is minded nonetheless to make a decision which is against the interests of the applicant on one or more issues, the reviewer must notify the applicant that the reviewer is so minded and the reasons why and that the applicant, or someone acting on their behalf, may make representations to the reviewer orally or in writing or both orally and in writing.

3. I am writing to advise that I have considered your representations; however, I am minded to make an adverse decision on your homelessness application and find that you are not in priority need for accommodation. The reasons for this are outlined below.

Sarah Cary
Executive Director
Place
Enfield Council
Civic Centre, Silver

www.enfield.gov.uk

? If you need this document in another language or format contact the service using the details above.

4. Please note that this letter should be read in conjunction with the S.184 decision letter of the 25th January 2023.

Equality Act 2010

5. In carrying out the review I have had due regard to S.149 of the Equality Act 2010. I can confirm that I have reached the current position with the equality duty well in mind and carried out this exercise in substance, with rigour, and with an open mind. I have focused very sharply on (i) whether you are under a disability (or has another relevant protected characteristic), (ii) the extent of such disability, (iii) the likely effect of the disability, when taken together with any other features of her application.

6. I note that you are a 33-year-old female British citizen. It was also disclosed that you have history of depression since 2008 and have recurring insomnia which affects your sleep since December 2007, which is noted to have been adequately managed by your GP through prescribed medication and via counselling. You have been suffering an acute exacerbation of your mental health issues due to the assault on 26th November 2022, you had a rupture of the flexor digitorum superficialis tendon and was treated with antibiotics and bandaging.

7. I note that you had a form of surgery initially in November 2022 and you have continued with hand therapy. It is also noted in the GP's letter dated 26th January 2023, you advised that following your medical review, you will be undergoing an operation on your injury to repair the tendon in March 2023. It is noted on 7th December 2022 you were prescribed with Mirtazapine an anti-depressant, used to treat depression, which can also be helpful with difficulties getting to sleep, furthermore you were reviewed by Miss Sharma on 21st December, as you were reported to be getting thoughts of self-harm also awaiting therapy from the mental health team. I also note you have been diagnosed with Asthma since birth and use standard inhaler medication to combat the symptoms of your illness and you do not require profound degrees of ventilatory support to maintain standard functioning, nor do you have a history of urgent respiratory interventions.

8. Having carefully considered the above stated medical diagnosis, I am satisfied that you do not have protected characteristic of a disability. This is based on the above medical history and information that has been obtained, I can confirm the information will be fully considered in this letter. I am also of the opinion that you have the other relevant protected characteristics such as sex, race, religion, belief, and age. I have taken these into account, along with your personal circumstances, when considering the review and whether you are vulnerable and in priority need.

9. I am satisfied that your case has been assessed fairly and you have had the opportunity to make submissions throughout the homeless application and review. I am satisfied that when compared to people without the same protected characteristics the manner in which the Council has treated your application demonstrates that you have not been treated less favourably than those with or without similar protected characteristics. When carrying out the review I am satisfied that your circumstances and protected characteristics have been fully considered and taken into account.

10. However, having weighed up the information and focused sharply on the factors set out by the courts, I am of the view that you do not have a priority need for accommodation and I do not consider that you should be treated more favourably as a result of the protected characteristics that you have. The reasons for this provisional decision will be explained in this letter. In my view and on a review of your case, I am satisfied that, you are not significantly more vulnerable than ordinarily vulnerable when I compare you to the ordinary person if homeless.

11. The Council acknowledges that you have reported experiencing issues of selfharm, though there is no evidence of current self-harming behaviour, we strongly urge you to immediately visit hospital or contact the emergency services if you are feeling unwell or have thoughts of self-harm.

Background to homelessness application and review

12. It is recorded that you approached Enfield Council for housing assistance on 20th December 2022, as you were a victim of an attack at a nearby pub and now do not feel safe to return to your current accommodation at 7 Tennyson Close, Enfield EN3 4SN where you are a tenant of registered provider London & Quadrant Housing Trust (L&Q) and have an assured tenancy with L&Q.

13. On 27th November 2022 you sustained a hand injury due to a stabbing at the Goat Pub, which is in close proximity to your accommodation. As a result of this injury, you were admitted to hospital and discharged the same day, however you have not gone back to your property through fear of further violence from the perpetrators of the attack. It has been established that the perpetrators live in proximity to your property, and you believe that returning to the property will entice a further attack

suspects of the investigation and the mental/physical toll the incident has been on you. Additionally in an email dated 14th December 2022, Nazma Sharifl L&Q Caseworker mentioned that L&Q will be referring your case to their high harm panel to consider a long-term priority move for you, which seems to be a more appropriate and lasting way to resolve this issue.

15. Additionally, from information provided by the Met Police and yourself, this attack was perpetrated by individuals who you previously did not know, and this was not a planned or premeditated assault. There were no previous threats of violence from the perpetrators, nor has there been any further instances of violence, either actual or threatened, since this attack. The altercation at the Goat Pub has been deemed, both by you and the Police, as a spontaneous dispute that quickly escalated

16. You stated that you are single and have several medical conditions such as Depression, hand Injury and Asthma, you advised that you were assaulted on 26th November 2022 and was admitted to North Middlesex Hospital A&E department with bleeding in the right hand. You were examined by the surgeons, and you had a rupture of the flexor digitorum superficialis tendon and was treated with antibiotics and bandaging.

17. I also note in your GP report that due to the assault; you have been suffering an acute exacerbation of your mental health issues. you informed your GP that the police have assessed your flat and deemed it unsafe to live in and therefore currently you are homeless, and you have to stay sometimes with friends in the day and leave your friends at night and stay in the streets and sometimes wherever you can.

18. Enquiries into your homelessness was conducted. Consideration was given to the fact that you had stated that you have been rough sleeping in and around the Borough since November 2022, however during the enquiries with rough sleeper's team to ascertain if you are known to them and have a chain number, they advised that you are not known to them and have never been counted as a rough sleeper in the Borough.

19. It is recorded that you were provided with interim accommodation at 53 Travelodge Enfield, Lumina Park, Great Cambridge, EN1 1FS pending further enquiries into your application. Following the conclusion of these enquiries, in the section 184 decision letter dated the 25th January 2023 the Caseworker advised that you were

not in priority need for housing. You requested a review of the decision on the 26th January 2023.

Summary of medical information and personal circumstances

20. In reaching the current position on review I can confirm that I have considered the medical documents, reports, and your opinions, as well as disclosures made by you. I can confirm that I have considered the following key documents (and in no particular order):

- Your homeless application, housing forms and file notes.
- Section 184 decision dated 25th January 2023.
- Now Medical assessment dated 24th January 2023
- Royal Free appointment letter dated 12th January 2023
- Plastic Surgery Team appointment letter dated 2nd December 2022
- Hospital discharge papers dated 27th November 2022
- Medical Notes dated 4th March 2022
- Vulnerability questionnaire dated 21st December 2022
- The relevant case laws.
- The above-mentioned Act.
- The Homelessness Code of Guidance for Local Authorities 2018.
- The Equality Act 2010.
- All other relevant information contained in the housing file.

21. As stated above you reported that you have been diagnosed with history of anxiety and depression and sleep problems, asthma, and injury to your right hand in November 2022 following your attack at the goat pub.

22. In reaching the decision that you are not in priority need for housing, I have had sight of the medical opinion from the independent Medical Advisor at Now Medical dated the

23. In his report dated the 24th January 2023 Dr Ash Thakore acknowledged your history of anxiety and depression and sleep problems. He notes you are being prescribed standard anti-depressant medication and medication to help with sleep. your ability to think rationally or your cognitive thought processing appear to be unabated. The Doctor advised that there are no unstable psychotic tendencies or active suicidal thoughts to consider, and you are not on an enhanced care plan.

24. Dr Ash Thakore considered your history of asthma. He notes you are in receipt of standard inhaled medication. Dr Thakore advised that urgent respiratory interventions or profound degrees of ventilatory support are not required. You have not had repeated hospitalisations due to ongoing infective exacerbations of a poorly controlled underlying asthma diagnosis.

25. Dr Ash Thakore also considered you sustained an injury to your right hand in November 2022. The Doctor noted you required a surgical procedure and you have had physiotherapy. Additionally, he notes you report you are awaiting further surgery on 28th February. However, Dr Thakore did not see evidence to suggest that you have any profound unstable degree of neurological compromise or that you are in receipt of any specialist day to day care service input that we would associate with someone which has a significant inability to function due to a secondary mobility disorder.

26. Dr Thakore was of the opinion that your medical issues do not confer you with a medical priority. Dr Thakore went on to advise that compared to any ordinary person made homeless, your issues do not constitute any significance and the doctor made no housing recommendations on health grounds.

<u>The Law and Guidance</u>

27. The following categories listed below are people considered to be in priority need as defined in s.189 of the above Act:

    a) A pregnant woman or a person with whom she resides or might reasonably be expected to reside.

    b) A person with whom dependent children resides or might reasonably be expected to reside.

    c) A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside.

d) A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.

e) A person aged 16 or 17 who is not a 'relevant child' or a child in need to whom a local authority owes a duty under s.20 of the Children Act 1989.

f) A person under 21, who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');

g) A person aged over 21 who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a 'relevant student').

h) A person who is vulnerable as a result of having been a member of Her Majesty's regular naval, military or air forces.

i) A person who is vulnerable as a result of having served a custodial sentence, been committed for contempt of court or other kindred offence or having been remanded in custody.

j) A person who is vulnerable as a result of leaving accommodation because of violence or threats of violence that is likely to be carried out.

28. I have considered whether you fall under any of the above categories and, in particular, whether you could be vulnerable as a result of physical health issues, mental health issues.

29. The Homelessness Code of Guidance for Local Authorities 2018 advises that I should take into account all relevant factors, including the nature and extent of an applicant's conditions along with the relationship between the conditions, their housing difficulties and any other factors that may be relevant.

Test of vulnerability

30. In the cases of *Hotak v London Borough of Southwark; Kanu v London Borough of Southwark; Johnson v Solihull Metropolitan Borough Council (2015)* the Supreme Court highlighted that when assessing vulnerability, an authority must pay close attention to the particular circumstances of the applicant. It was noted that virtually everyone who is homeless suffers harm by undergoing the experience.

31. The Council needs to ask itself whether an applicant would be significantly more vulnerable than ordinarily vulnerable as a result of being rendered homeless when compared to an ordinary person if made homeless. This was confirmed in the court judgment of *Jesse Panayiotou V Waltham Forest et al (2017)*.

32. I have considered whether you fall under any of the above categories and in particular, whether you fall under category c.

33. It was made clear at paragraph 42 of the *Hotak* judgement that “street homelessness” is not found in the 1996 Act and “homelessness” is an adjective which can cover a number of different situations. The consideration of whether an applicant is vulnerable and in priority need takes into account and then considers that they will be without accommodation as a result of the decision that they are not in priority need for accommodation. However, I have considered the various scenarios of homelessness, including you being without accommodation, in order to consider the affects and risk of harm toward you.

34. In paragraph 62 of the Hotak judgement it is stated: ‘As explained in para 37 above, an applicant's vulnerability under section 189(1)(c) has to be assessed by reference to his situation if and when homeless. In other words, it is not so much a clinical assessment of his physical and mental ability (to use a shorthand expression): it is a contextual and practical assessment of his physical and mental ability if he is rendered homeless (which, as just explained, must be compared with the ability of an ordinary person if rendered homeless). The fact that it is a contextual and practical question points strongly in favour of the conclusion that, when deciding if he is "vulnerable", one must take into account such services and support that would be available to the applicant if he were homeless.’

35. At paragraph 63 amongst other things, it goes on to say: ‘Virtually everyone is better off housed than homeless, but it is those people who will be more vulnerable in practice if they are homeless who could be expected to receive priority treatment. It would seem contrary to common sense if one were to ignore any aspect of the actual or anticipated factual situation when assessing vulnerability. It is also relevant to note that paras (a), (b) and (d) of section 189(1) are all concerned with practical situations.

36. At paragraph 64 amongst other things, it is stated: ‘As Lord Wilson pointed out, this conclusion is supported by considering an applicant with a physical or mental condition which, if not treated, would render him vulnerable, but which can be satisfactorily treated by regular medication. If such an applicant, when homeless,

would be perfectly capable of visiting a doctor to obtain a prescription and a pharmacist to collect his medication, and then of administering the medication to himself, it would be unrealistic to describe him as "vulnerable", when compared with an ordinary person when homeless'.

37. I have also considered paragraph 70, which states the following: '…in some cases, the support may be every bit as good as the applicant would receive if he were housed, but it would still not prevent him from being vulnerable. Accordingly, the reviewing officer must always consider very carefully whether the applicant would be vulnerable, after taking into account any support which would be available.'

38. The assessment is not a clinical assessment, it should be a practical assessment of your situation and what has occurred or could occur when compared to an ordinary person, if homeless. This assessment should pay close attention and show due consideration to your medical conditions and any other relevant factors.

39. Therefore, in addition to the medical information provided, I have considered what you have done and achieved with your conditions and personal circumstances while rendered homeless and facing housing uncertainty. I have taken into consideration the services and support available if you were without accommodation.

Consideration of the information

A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside.

Medical Issues

40. It is accepted that you suffer from the aforementioned conditions. I also note that other social stressors such as homelessness. I note the challenges you reported with regards to managing your day-to-day affairs as you described yourself as being of low mood. And you had suffered a significant exacerbation of your mental health issues following the assault you experienced in November 2022, and you were also getting thoughts of self-harming.

41. I have considered all the report from treating professionals who are either directly or indirectly involved in your care, including support offered by your close friends. Despite this, I am not satisfied that you are significantly more vulnerable than

ordinarily vulnerable, when I compare you to an ordinary person, if rendered homeless.

42. In reaching the view that you are not in priority need for housing, I have considered the level of support, which is available to and accessed by you, your past accomplishments despite suffering from the above stated medical issues, *whether* you have been rendered vulnerable as a result of your medical conditions and suffering experience of the assault. I have considered the fact that at present you are not engaging with any mental health programme and have declined help from L&Q so that they can provide you with the support as your Caseworker mentioned that they will be referring your case to their high harm panel to consider a longterm priority move, which seems to be a more appropriate and lasting way to resolve this issue.

43. You provided a letter from Nightingale House Surgery from your GP dated the 26th January 2023, Dr Ajogbe advised that you have a history of depression, you were also getting thoughts of self-harm and you are waiting therapy from the mental health team. Given this information I am of the opinion that you are able to manage your medical conditions without assistance.

44. During the conversation in December 2022 when you approached the council, you advised that you had been sleeping rough and using facilities from different friends' accommodation available to you, which demonstrates your awareness of the facilities available to you if without accommodation.

45. I have considered the information held on your housing file and have carried out an analysis of the practical and contextual activities that you had shown in a situation of homeless. I have noted that you had advised that you had been without accommodation since your assault in November 2022, As stated earlier, we were unable to verify you are sleeping rough with the rough sleeper's team.

46. Regardless, I have considered that you have the skills, understanding, resources as well as the assistance available to resolve your homelessness, you could access different friends' accommodation if required. You have also demonstrated that you have engaged with your GP, Police when required, maintained your finances, and engaged with the Council regarding your housing issue since November 2022. You have sought the services of the solicitors to advocate on your behalf, you provided submissions in writing and are able to advocate independently with or without support.

47. It is clear from the information available that you are able to advocate on the type of property that you would prefer to live in and have rejected the offer made by L&Q, although this would have resolved your homelessness.

48. Even though stable accommodation makes access to services easier, I am satisfied if you should find yourself without accommodation, you would still be able to maintain appointments, manage your affairs and continue to engage with the relevant services if homeless as you had previously demonstrated and have also advised that you have been without accommodation since November 2022. Whilst it may not be ideal, if you were without accommodation, there are a number of services such as night shelters and services offered by the StreetLink https://www.streetlink.london or call 0300 500 0914, (Shp) Single Homeless Project 0204 509 8300, Riverside is a floating support group and can be contacted on 0208 443 7500, The Edmonton Homeless Resource Centre is a drop-in center where homeless people can access advice, counselling, advocacy and assistance in securing alternative accommodation and can be contacted on 0208 884 1838.

49. When I balance and weigh up the information on file, I am of the view that your medical conditions and personal circumstances do not impact you to such an extent that you should be considered to be in priority need for housing. As such, when I assess your medical conditions and personal circumstances practically, I form the view that you are not significantly more vulnerable than ordinarily vulnerable when compared with an ordinary person, if rendered homeless.

Other special reason

50. I have taken into account all of the information from your, medical professionals, support letters, and submissions. I have carefully considered your medical issues and personal circumstances in order to assess how they have affected you and could affect you if homeless. However, I am satisfied that the appropriate medical support would continue to be available to you in order to monitor and manage your conditions so that you would not be at more risk of harm when without accommodation than an ordinary person. You have been able to maintain your medical care, obtain your prescriptions, collect these and self-medicate as required. You also report having consistent support from friends.

51. When considering the information, I note that the NowMedical doctor who completed their report did not interview or examine you in person, whereas the other medical professionals in your care and assessment have done. However,

their report was prepared after taking into consideration information directly from you and the treating professionals and support services.

52. After consideration of all the facts of your case and your submissions on review, I am satisfied that you are not in priority need. However, prior to making the final S.203 decision, you or someone acting on your behalf, may make further oral and/or written representations regarding the issues raised in this letter. Please ensure that I am in receipt of any further submissions by **5pm on Friday the 24th March 2023.** Please note that unless an extension of this deadline has been agreed, I reserve the right to make a decision on review any time after that date based on the information currently available.

53. Please send any correspondence regarding the review to Mrs Jeta Ibi by either email at Jeta.Ibi@enfield.gov.uk

Yours sincerely

JetaIbi

Jeta Ibi
Housing Review Officer
Housing & Regeneration
LONDON BOROUGH OF ENFIELD