



Duncan Lewis

Review Team

London borough of Haringey

E-Mail only

Jeta.Ibi@enfield.gov.uk

Correspondence Address:

Civil Legal Advice Sackville
House 143-149 Fenchurch
Street

London

EC3M 6BL

DX 1074 CDE

Andre Cummings

Housing

City office

Our ref: ANDREC/B1****1/DB

Date: 5th April 2023

REVIEW UNDER THE HOUSING ACT 1996 PART VII S202

Dear Sirs

RE: DB

NFA

We continue to act for the above-mentioned client in relation to his review under S202 of

Housing Act 1996. We write further to our previous communications to submit further

Representations in support of our request for a review of the council S184 decision finding Miss Benjamin not in priority need. We have perused our clients housing file and taken further instructions from her. Our client instructs that she is in priority need and a further understanding of her medical

We want to thank you for agreeing to our request for an extension of time.

The purpose of this review is to address the council Non priority need decision on 25th January 2023



Duncan Lewis Solicitors

and to respond to the councils minded to letter dated 20th march 2023. Our client will first address the points of the council's regulation 7 letter and then address points regarding non priority need.

Background

Our client is 33 year old female , Our client moved into 7 tenneyson close , Scotland green road Enfield EN3 4SN on 9/08/2011. Our client was subject to an attacked in November 2017 by three men which was documents to Enfield council as our client was awarded with 150 bidding points in letter dated 13 September 2021 (see attached). Our client was attacked on 25th November 2022, this attack resulted in our client being stabbed in the hand and required surgery (see attached). Our client states London and quadrant housing association submitted an urgent application for assistance under section 183 housing act 1996 on 9th December 2022. They asked Enfield council for assistance as they no longer had housing to place our client as the police stated the property was not safe. (See attached). This submission included Enfield council to provide interim accommodation under s188. Enfield council issued a letter to you on 28th December 2022 stating that they would be offering our client with interim accommodation under section 188(1) pending enquiries into her case. The council provided our client with a travel lodge, our client states during her stay at the travel lodge she was sexually assaulted whilst waiting for food at the hotel restaurant/ bar. Our client states hotel room was broken into and her partner was assaulted trying to protect her. Our client state since this incident, she has been made homeless and the council stopped provided accommodation. Our client has been street homeless since 16 January 2023. On the 25th January 2023 the council issued our client with a S184 non priority decision letter and declined our client application for accommodation pending review.





Duncan Lewis Solicitors

Regulation 7

Client response to minded regulation points 1- 26.

Point 11 states the following:

The Council acknowledges that you have reported experiencing issues of self-harm, 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.

Our client mother has instructed that our client has been self-harming since she was a child, in letter dated 24/02/2023 it is reported that our client has a history of self-harm, involving horizontal cutting of her arms. See attached letter. Further our client has made a SAR request on 26th January 2023 and still awaiting further medical evidence to support this history of self-harm and mental health. Our client will put forward further evidence upon receipt.

In regard to point 13 which states:

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





Duncan Lewis Solicitors

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 as you feel you will inevitably come into contact with these people.

Our client instructs she was attacked on 25 November 2022 and not the 27th November 2022 as stated.

Our client states the council seem to be using incorrect information's, our client was attacked on 25 November 2022, the hospital could not stop the bleeding. North Middlesex could not deal with the injury and had to send our client to the royal free hospital. The royal free hospital did not have any beds so our client had to stay at north Middlesex until they were able to stop the bleeding. Our client was then given blood transfusions and sent home, our client was informed that she should go to the royal free hospital in the morning. Our client went to the royal free hospital the next day but there was no doctor there to do the operation she needed to the hand. Our client went back to the royal free hospital again on 27th November 2023 and an operation was carried out on her hand.

Further our client states she did not return to the property due to the advice from the police. (see attached letter).

In regards to point 15 which states the following

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.





Duncan Lewis Solicitors

Our client mother instructs that although she did not know her attackers who assaulted her on 25/11/2022, one of the suspect of the assault lives on our client block of flats which lead to the police deeming the property to be unsafe for her to live in. our client states the police advised and made a recommendation to Enfield council on 8th December 2022 that she should be moved due to the proximity of the suspect of the investigation and the mental/ physical toll the incident has on Ms Benjamin.

In regards to point 23 and 24

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 hospitalizations due to ongoing infective exacerbations of a poorly controlled underlying asthma diagnosis.

It is now also stated DB had PTSD which she is waiting for treatment along with other treatment for her mental health.



Duncan Lewis Solicitors

Our client states in the letter dated by Dr Abidoye on 26th January 2023 it is stated that our client has reported that she has thoughts of self-harm and waiting therapy from the mental health team. The doctor asked if our client could be provided suitable accommodation as soon as possible due to the impact it is having on her mental health and recovery from hand injury.

Our client position

The review officer correctly mention that the test to be used to assess whether or not Miss Benjamin is deemed to be vulnerable in accordance with Section 189(1) (c) of the housing act 1996 is laid down by the Supreme Court in the cases of *Hotak v London Borough of Southwark; Kanu v London Borough of Southwark; Johnson v Solihull Metropolitan Borough Council* [2015] UKSC 30; [2015] 2 WLR 1341. In deciding whether a person is vulnerable in accordance with Section 189(1) (c) of the above Act the Council must ask itself whether the applicant, as a result of being rendered homeless, is ‘significantly more vulnerable than ordinarily vulnerable’.

Paragraphs 1 to 53 the Supreme Courts set out the history and background in relation to vulnerability and the defining paragraph, which sets out what the definition of vulnerable is in paragraph 53. In this paragraph Lord Neuberger states

“Accordingly, I consider that the approach consistently adopted by the Court of Appeal that “vulnerable” in section 189(1) (c) connotes “significantly more vulnerable than ordinarily vulnerable” as a result of being rendered homeless, is correct”.





Duncan Lewis Solicitors

Lord Neuberger stated significantly and more vulnerable means - *Virtually everyone who is homeless suffers “harm” by undergoing the experience, and therefore one is thrown back on the notion of a homeless person who suffers more harm than many others in the same position*”.

It is noted that the reviewing officer stated under Section 189(1) (c) that they are not satisfied that our client would suffer more harm than an ordinary person if made homeless. Our client’s instructions are that this notion is rebutted and she is currently homeless and more vulnerable.

Medical condition and circumstances

The review officer has stated in points 40 and 41 that it is accepted that our client suffers from the aforementioned condition and other social stressors such as homelessness and have noted the challenges our client face on a day to day basis. The review officer states that along with this and considering medical reports our client would not be significantly more vulnerable than ordinary person.

In regards to management on her own if made homeless our client has stated this is not the case. On our client's Personal independence payment plan assessment awarded in 2020 states that our client needs supervision or assistance from another person to prepare or cook a simple meal (see attached). The letter further states that in regard to washing and bathing , our client will need supervision or prompting from another person to wash or bathe, this supports the notion that now our client street





Duncan Lewis Solicitors

homeless she is struggling to gather good and keep her hygiene. Further it is stated in regard to dressing and undressing, our client either needs another person to tell her how to get dress or undressed, how to do it or when to keep her clothes on. Our client needs prompting or assistance selecting appropriate clothing. Our client needs support in making complex budgeting decisions and cannot undertake journeys alone as it will cause overwhelming psychological stress.

For these above reasons when compared to an ordinary person our client is in priority need. An ordinary person does not need support to eat their food, bathe, dress, undress or support with mixing people.

Our client states that they have not declined the help and support from L&Q and information of point 42 is incorrect, our client was previously housed by L & Q for 11 years and if help is offered to relief her homelessness she would accept.

Our client states what is stated in point 46 is incorrect, it is stated :

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.



Duncan Lewis is the trading name of Duncan Lewis Solicitors LTD | Registered office: Sackville House, 143-149 Fenchurch Street, London, EC3M 6BL | Company Registration No: 03718422
VAT Registration No: 718729013 | A list of the company's Directors is displayed at the registered office address | Authorised and regulated by the Solicitors Regulation Authority (SRA)
Offices across England and Wales | Calls may be recorded for quality, security and training purposes | Document generated by Indigo Case Management System



Duncan Lewis Solicitors

Our client mother has instructed that the council are incorrect, our client has not been the one doing everything, and her family has been supporting her as she cannot do things on her own. Our client needs assistance in making calls, writing due to her dyslexia learning difficulty. Our client has never been able to deal with things herself since she was a child and has always needed great deal of help. Our client is unable to receive this help when homeless as she has nowhere to sleep.

Other special reasons

Our client states that they disagree with point 51 that a person can assess someone's mental health without conducting an interview or examining in person.

Our client states Dr Ash Thakore has done a paper review for the council and a doctor is unable to get a full picture this ways.

New medical evidence

Our client instructs she suffers from, learning difficulties , mental health, asthma, insomnia and physical medical needs due to attack that took place on 25th November 2022. Our client traumatic memories from the attack are triggered easily especially when she walks past the incident site. Our client was referred to the plastic surgery psychology service following her attack. Our client conducted an psychological assessment on 16th February 2023 at the royal free London hospital. The





Duncan Lewis Solicitors

assessment results showed that our client is suffering from symptoms consistent with PTSD. The report states that our client does not want to care for her injured hand as she feels it is not hers, this highlights our clients mental health struggles. The report supports that our client has history of self-harm, an ordinary person if made homeless would not self-harm. The assessment stated that our client needs to be stable under community services before psychological therapy in relation to her hand. Our clients PHQ-9 were 17/24 and GAD-7 19/21 which shows our client suffers from server depression and server anxiety. Lisa Goodman the clinical psychosis stated that when our client is stable she can return to the plastic surgery psychology service for support.(see attached) our client mental health shows that she is in priority need , a ordinary person would not suffer from anxiety and depression and be told to return when they are stable. Our client is homeless and her mental health suffers more and more every day.

Our client GP letter dated 16 march 2023 the letter states our will have to operate on her injury to repair the tendon in her hand. The letter supports that suitable accommodation soon as possible would be suitable due to the impact being homeless is having on our clients mental health and allow her to recover from her injury.

The law

The homelessness code of guidance for local authorities chapter 8 states the following in regard to priority need.

8.17 When assessing an applicant's vulnerability, a housing authority may take into account the



Duncan Lewis Solicitors

services and support available to them from a third party, including their family. This would involve considering the needs of the applicant, the level of support being provided to them, and whether with such support they would or would not be significantly more vulnerable than an ordinary person if made homeless. In order to reach a decision that a person is not vulnerable because of the support they receive the housing authority must be satisfied that the third party will provide the support on a consistent and predictable basis. In each case a housing authority should consider whether the applicant, even with support, would be vulnerable.

Mental illness or learning disability or physical disability

8.26 Housing authorities should have regard to any advice from medical professionals, social services or current providers of care and support. In cases where there is doubt as to the extent of any vulnerability authorities may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the housing authority. In considering whether such applicants are vulnerable, authorities will need to take account of all relevant factors including:

- (a) the nature and extent of the illness and/or disability;
- (b) the relationship between the illness and/or disability and the individual's housing difficulties;
and,
- (c) the relationship between the illness and/or disability and other factors such as drug/alcohol misuse, offending behaviour, challenging behaviour, age and personality disorder.



Gold
April 2022



Contracted with
the Legal Aid
Agency



Duncan Lewis Solicitors

8.27 Assessment of vulnerability due to mental health problems will require co-operation between housing authorities, social services authorities and mental health agencies. Housing authorities should consider carrying out joint assessments or using a trained mental health practitioner as part of an assessment team. NHS mental health services provide help under the [Care Programme Approach \(CPA\)](#) for eligible patients, including people with severe mental illness (including personality disorder), who also have problems with housing. People who are homeless on discharge from hospital following a period of treatment for mental illness are likely to be vulnerable. Effective arrangements for liaison between housing, social services and mental health services will be essential in such cases but authorities will also need to be sensitive to direct approaches from former patients who have been discharged and may be homeless.

8.28 Learning or physical disabilities or long-term or acute illnesses which give rise to vulnerability may be readily discernible, but advice from health or social services should be sought wherever necessary.

Having left accommodation because of violence

8.37 A person has a priority need if they are vulnerable as a result of having to leave accommodation because of violence (other than domestic abuse) from another person, or threats of violence from another person that are likely to be carried out. It will usually be apparent from the assessment of the reason for homelessness whether the applicant has had to leave accommodation because of violence or threats of violence. In cases involving violence, the safety of the applicant and ensuring confidentiality must be of paramount concern.



Duncan Lewis Solicitors

8.38 Note, in this context violence does not include violence which relates to domestic abuse. For further guidance on dealing with cases involving

Conclusion

In regards to chapter 8.17 of homelessness code of guidance for local authorities, our client mother underwent heart surgery and was in hospitals for a long periods of time since our client has been homeless, our client cannot rely on the consistent assistance from her mother as she is battling with her own health conditions.

As stated previous in *Hotak v London Borough of Southwark*, *Kanu v London Borough of Southwark*, *Johnson v Solihull Metropolitan Borough Council* [2015] UKSC 30 that when determining whether a person is “vulnerable” within the meaning of section 189(1)(c), a local housing authority “must pay close attention to the particular circumstances of the individual”. We believe that the local authority has acted in incompetence in this sense and has completely disregarded our client’s individual circumstances and she is indeed in priority need and in need of accommodation.

Our client states that on 21 October 2019 she was awarded medical priority from L & Q after a medical assessment (see attached) Our client states her medical condition has thus become worse since this point and should be considered in priority need by the council.

If you have any queries, please contact me by telephone on 02072752883. Please ensure that you quote our reference number above in all correspondence and communications with this office.



Duncan Lewis
Solicitors

Yours faithfully

Duncan Lewis

Duncan Lewis



Duncan Lewis is the trading name of Duncan Lewis Solicitors LTD | Registered office: Sackville House, 143-149 Fenchurch Street, London, EC3M 6BL | Company Registration No: 03718422
VAT Registration No: 718729013 | A list of the company's Directors is displayed at the registered office address | Authorised and regulated by the Solicitors Regulation Authority (SRA)
Offices across England and Wales | Calls may be recorded for quality, security and training purposes | Document generated by Indigo Case Management System