Case No: F20BM015

IN THE COUNTY COURT AT BIRMINGHAM

Civil Justice Centre, Priory Courts,
33 Bull Street, Birmingham B4 6DS

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Before:

RECORDER KHANGURE, QC

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Between:

LEON RUSSELL	**Appellant**
- and -	
SOLIHULL METROPOLITAN BOROUGH COUNCIL	**Respondent**

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MR. Z. NABI (C) for the Appellant
MS. C. ROWLANDS (C) for the Respondent

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APPROVED JUDGMENT

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THE RECORDER :

1. By an appellant's notice dated 9th July 2019, Mr. Leon Russell sought to appeal against the decision of the respondents, Solihull Metropolitan Borough Council, in respect of his housing on the grounds that the respondent's decision that the appellant was intentionally homeless under section 190 of the Housing Act 1996 was wrong.

2. The order in the appellant's notice seeks as follows. That the decision contained in the letter dated 18th June 2019 is varied to one that the appellant continues to be owed the full housing duty by the respondent; secondly, in the alternative, that the decision is quashed and remitted to the respondent for further consideration, and thirdly, they seek their costs.

3. The appellant's notice was supported by grounds of appeal which in substance have seven grounds of appeal, and I summarise them as follows. First, they say that the officer who carried out the review misdirected herself in law, and the main reason for that is that they say that she failed to ask herself the correct legal question in relation to the appellant's occupancy of a property known as Hanwood House and whether it was reasonable for the appellant to continue to occupy this accommodation indefinitely, both now and in the future. They say that is because it was only available for three months. Therefore, they say that the respondent's approach to the question of whether the accommodation at Hanwood House was settled, was flawed.

4. The second ground is an assertion that there has been a breach of the Equality Act 2010. The appellant accepts that in the final review letter, the respondents did accept that the appellant has the protected characteristic of disability under that Act, but they say that should have led to a different conclusion. They also say, added to this point, that the respondent failed to consider its public sector equality duty.

5. The third ground is that they say that the respondents did not follow the breach of Homelessness (Review Procedures, etc.) Regulations 2018. The fourth ground is that there was a failure to make adequate enquiries on the part of the respondents before the decision was reached, and specifically it refers to the evidence from a firm known as Now Medical, which I shall come on to in due course.

6. Fifthly, failure to consider relevant matters or took into consideration irrelevant matters, and that is that they say that the respondents' review officer failed to have sufficient regard to the representations and information provided to the respondents on the appellant's behalf.

7. Six, failure to provide proper adequate and intelligible reasons for its decision. The appellant's case here is that if you read the decision itself, there are insufficient reasons or inadequate or unintelligible reasons therein. Finally they say under the ground of reasonableness, and I quote: "In the light of the facts, no authority acting reasonably and having properly directed itself in accordance with the test set out in *Ali v Birmingham City Council* and *Moran v Birmingham City Council* [2009] 1 WLR 1506, could have come to the conclusion that the appellant's accommodation was reasonable to continue to occupy indefinitely", and therefore they saw the decision as irrational.

8. In his submissions to me, Mr. Nabi for the appellant said that although it is suggested that the decision was irrational, that is a somewhat higher hurdle which he would have to get over.

9. The decision itself is to be found at page 16 of the appeal bundle and it is a document that is twelve pages long. I shall have to come back to it in some detail when I give my conclusions on the evidence.

10. Before I can go on to consider the appeal, I remind myself of what the purpose of my review/appeal is. Section 204 of the Housing Act allows a person such as the appellant to appeal, by way of review, the decision. Both parties agree that the appeal is limited to an appeal on a point of law, and the court's task is to examine the decision taken by the local authority, the primary decision-maker, and not to embark upon an examination of the evidence.

11. Ms. Rowlands for the respondents has referred me to the decision of Lord Millett in *Begum v The London Borough of Tower Hamlets* [2003] UKHL 5 at paragraph 99, where Lord Millett says as follows, and I quote: "If it is based on a finding of fact or inferences from the facts which is perverse or irrational; or there was no evidence to support it; or it was made by reference to irrelevant factors with or without regard to the relevant factors…the court cannot substitute its own findings of fact for those of the decision-making authority if there was evidence to support them, and questions as to the weight to be given to a particular piece of evidence and the credibility of witnesses are for the decision-making authority and not the court".

12. She also refers at paragraph 20 of her skeleton to Lord Neuberger's decision in *Holmes-Moorhouse v London Borough of Richmond Upon Thames* [2009] UKHL 7, where His Lordship said at paragraphs 47 to 51, and I quote: "A benevolent approach should be adopted to the interpretation of review decisions. The court should not take too technical a view of the language used or search for inconsistencies or adopt a nit-picking approach when confronted with an appeal against a review decision. A decision can often survive despite the existence of an error in the reasoning advanced to support it, for example, sometimes the error is irrelevant to the outcome, sometimes it is too trivial (objectively or in the eyes of the decision-maker) to affect the outcome. Sometimes it is often, from the rest of the reasoning read as a whole, that the decision would have been the same notwithstanding the error;…"

13. She also makes the point by reference to Lord Brown in *South Bucks District Council v Porter No. 2* [2004] UKHL 33 at paragraph 49, that the burden is on the challenger to show that the decision-maker made an error in law.

14. There is no difference between the parties as to the correct approach that I have just highlighted by reference to the respondents' skeleton. At paragraph 58 of the appellant's skeleton, they also confirm that the appeal is purely on a point of law. They, however, refer to *Bubb v Wandsworth London Borough Council* [2011] EWCA Civ 1285, where they say: "The Court of Appeal held that when considering an issue in a judicial review type of case, the court should adopt a sliding scale review, more or less intrusive according to the nature and gravity of what was at stake". They refer to a quotation of Lord Neuberger also.

15. The decision itself is dated 18th June 2019, although prior to that there was correspondence between the respondents and the appellant's solicitors where what are known as "Minded to" letters and responses were entered into. That correspondence eventually evolved into the decision which was, as I say, dated 18th June 2019.

16. Now, Mr. Nabi on behalf of the appellant took me to a number of documents that he said were relevant and which also formed part of the factual background as set out from paragraph 5 onwards of his skeleton argument. I will recite those in summary form as follows. Firstly, the appellant was born on 9th March 1977 and has been diagnosed with an emotionally-unstable personality disorder and alcohol dependence syndrome. On 9th October 2015, the appellant entered into a probationary tenancy agreement with Midland Heart in respect of a property known as 7 Eversley Road.

17. By March 2016, it is recorded within the correspondence by way of a letter dated 21st March 2016, which is at page 119 of the appeal bundle, that the appellant had responded well to the support that he was given, and I quote the last paragraph: "Mr. Russell has made good progress with engaging with mental health services and is now medicated. Leon (the appellant) has also controlled his alcohol use and with the understanding of the reasons behind this aspect of his life, it is hoped that this package of support will enable Leon to continue to gain more stability".

18. Now, in October 2016, the appellant's tenancy of Eversley Road came to an end, the probationary tenancy, and he became an assured tenant. However, things deteriorated and by March 2017 it would appear that the appellant had certain issues with his neighbours, and in June 2017 he was taken to court for breaching a restraint order and was granted bail on condition that he did not in the meantime return to 7 Eversley Road save to pick up his belongings. It was also a condition of his bail that he would stay at Hanwood House. Therefore, Hanwood House was put forward as a home for the appellant at that stage and in order to satisfy his bail conditions.

19. It would appear that the appellant voluntarily gave up his accommodation at 7 Eversley Road some time thereafter.

20. Now, the issue as to what type of accommodation Hanwood House is, has been the subject of much debate before me. It is described as an unprotected excluded licence occupation. However, by 29th July 2017 it would appear that because of the appellant's behaviour with other tenants, which culminated in an alleged assault on a member of staff, he was summarily removed from Hanwood House. That is when the appeal procedures started.

THE RECORDER: Would somebody remind me of the doctor's questionnaire page number, please?

MR. NABI: Yes, it is page 85.

THE RECORDER: Thank you.

21. I have in the appeal bundle a document dated 11th August 2017 which is a general practitioner's document, in that detail has been given about the appellant. At paragraph 2 it reads as follows, and I quote, under the heading "Diagnosis": "Mental and behavioural disorders due to alcohol use dependency syndrome. Emotionally unstable

personality disorder". Then under the heading "Prognosis" it refers to an order with crisis periods and the prognosis is worse with continuous use of alcohol.

22. Finally there is a question: "Is there evidence that the current accommodation is affecting your patient's health? Please summarise and advise if any family members are affected by your patient's disability, and if so, how". The doctor has written: "Has a history of public disturbances under the influence of alcohol. Was referred to the liaison alcohol team on 28th July 2017". So, quite clearly, the GP's note seemed to be suggesting that alcohol was the main cause of the appellant's behaviour where his behaviour was anti-social.

23. As I have said already, a restraining order was taken out in respect of his Eversley Road occupation and on 19th October 2017 that court order was made.

24. There is other medical evidence than I have been taken to as to the nature of the appellant's mental condition and his use of alcohol. If I may summarise that, it all leans to support the fact that the defendant does have some kind of psychiatric disorder or mental illness which is controlled by the taking of medication. However, if and when he ceases to take his medication, he could spiral into some form of crisis and the only way that he is able to cope with that crisis is to turn to alcohol or some other type of abuse. That is quite important, for the reasons I will come to when I consider the reviewing officer's decision and the conclusions that she has reached.

25. There is a duty on the local authority to make enquiries, especially if somebody is deemed to be disabled under the Equality Act. Now, initially the local authority considered the appellant not to be disabled within the Equality Act 2010; however, by the date of the review as to whether or not he was intentionally homeless, they accepted that he was disabled under that Act. However, they did on 6th December 2018, that is, the local authority, seek the assistance of a firm known as Now Medical.

26. Although the instructions given to Now Medical were not in the appeal bundle, Ms. Rowlands for the local authority was able to obtain a copy of the instructions given, and it would appear that two main questions were asked of Now Medical by the respondent local authority and they answered those two questions. The answers were as follows. They concluded that the appellant did have a history of being emotionally unstable, had alcohol dependency and he did breach the restraining order. However, they said they could not find evidence to indicate that the appellant was experiencing an aberration of mind, either temporary or permanent, during the period in question when he is alleged to have breached his restraining order.

27. Now, the restraining order was in respect of his previous accommodation, not Hanwood House. Therefore, when he was asked about the restraining order, Mr. Nabi submitted that it was the wrong question, because the aberration that we are talking about was the incident that happened at Hanwood House as opposed to 7 Eversley Road. However, Ms. Rowlands quite properly pointed to the fact that if you look at the restraining order and the details within the appeal bundle as to when the incidents occurred and the breaches took place, they were around the same relevant period as we are considering today.

28. The second question that Now Medical was asked about was whether or not the appellant had a disability within the meaning of the Equality Act 2010. They said that

he did not. However, the reviewing officer came to the conclusion that he was disabled and that the Equality Act 2010 did apply.

29. Now, at first blush it did seem a little bit peculiar that the local authority responded in previous correspondence and the "Minded to" letters, denying that the appellant fell within the definition of disability within the Equality Act 2010. However, Ms. Rowlands explained to me that the whole purpose of what are known as the "Minded to" letters is that there was dialogue between the local authority who had excluded the appellant from accommodation, and his solicitors, whereby each side's point of view or way of thinking was set out in correspondence.

30. This correspondence did change, quite properly, from time to time, because there were times when it was pointed out to the local authority that some of the reasons that they had given may not have been correct, and with all due respect to the author of the review letter, that is, Alexandra Maniatis, she did change her mind about certain aspects of the case. For example, she changed her mind in favour of the appellant by reference to disability under the Equality Act.

31. I was also taken to Dr. Ahmed's letter dated 30th October 2018, a letter from the NHS dated 16th June 2018 and a letter which appears to have been drafted by Mr. Townsend, although it does seem very similar to a previous statement that the appellant himself had made through his solicitors, and that is a letter dated 7th January 2019.

32. I asked as to the status of Mr. Townsend and nobody was too sure about that, but it matters not, because when I came to look at the decision letter again, I can see from page 2 and the fourth and fifth bullet points therein, that the reviewing officer not only considered the same statement that I have seen from Darren Townsend dated 7th January 2019, but she also had a conversation with him on 3rd January 2019. She took both his letter and her discussions with him into account.

33. Now, in a "Minded to" letter dated 11th March 2019, the respondent local authority in respect of Hanwood House said as follows, and I quote: "Following your eviction you moved into supported housing at Hanwood House, 10 Leopold Street, Birmingham, but you were evicted after a month due to assaulting a member of staff. I spoke to a member of staff from Hanwood House who confirmed that this was a temporary placement where people can stay up to six months in the hope of moving into permanent housing. You still had your tenancy at 7 Eversley Road, Small Heath, Birmingham, but due to breaking a restraining order, you agreed to give up your property and reside at Hanwood House in order to get bail".

34. "Your solicitor said that the only way you would be released from custody is if you had an alternative address where you can reside. This indicates to me that this was not your last settled accommodation, as it was given to you in order to make bail and you already had settled accommodation. But due to breaking a restraining order you were unable to return to your home and needed an alternative address. I fully appreciate that a short-term placement can break the chain of causation, but I am not satisfied that this applies to you, as the placement at Hanwood House did not guarantee you further settled accommodation. Just as significant is the fact that you were being helped to secure bail".

35. On the face of that letter at paragraph 7, it would appear that the author, who was again Ms. Alexandra Maniatis, considered that Hanwood House was merely temporary accommodation and not accommodation which would be reasonable for the appellant to continue to occupy.

36. Mr. Nabi's first point is that if that is the case, then when Mr. Russell was living at Hanwood House it could not be deemed to be accommodation for the purposes of the 1996 Act and therefore the question of whether he may intentionally or deliberately have made himself homeless does not arise. If that is what the reviewing officer was considering, because in her decision she came to the conclusion that his last settled accommodation was in fact Hanwood House, then that is an error of law and one which allows him to have the decision quashed and reconsidered by the respondent local authority.

37. In support of his submissions on the law as to accommodation or settled accommodation, he refers to the decision of the House of Lords in *Birmingham City Council v Ali and Others* and *Moran v The Manchester City Council* [2009] 1 WLR at 1506. He took me to certain passages. Baroness Hale of Richmond said at paragraph 9: "In each case, several issues have been raised, but common to both is the meaning of the phrase 'Accommodation' which it would be reasonable for him to continue to occupy", in section 175 sub-section (3) of the 1996 Act.

38. Does this mean that a person is only homeless if it would not be reasonable for him to stay where he is for another night? Or does it incorporate some element of looking into the future so that the person may be homeless if it is not reasonable to expect him to stay where he is indefinitely or for the foreseeable future? This question did not arise under the homelessness legislation as originally enacted and some account of how that legislation has evolved is necessary to understand how the argument has arisen.

39. At paragraph 28 under the heading: "The Manchester case", Baroness Hale went on to say as follows: "Ms. Moran is a young woman with two children who were aged three and two at the time of the relevant events in 2006. She also has mental health problems and 'Chronic poor coping skills'. She had a secure tenancy of a house in Moss Side, Manchester, which she left with her two children on 20th September 2006 because of domestic violence from her former partner (she had done so twice before). She went first to Trafford Women's Aid but moved on 18th October 2006 to North Manchester Women's Aid to be nearer to her mother and further from her partner".

40. "She signed a licence agreement which did not entitle her to any particular room but allowed her to stay there 'As long as you need to, you need it, while you decide what to do'. Because it was a safe house for women and children escaping domestic violence, there were some special rules, such as not to bring any men in to the refuge or the surrounding area, not to have any visitors or to give the address to anyone and not to have contact with the neighbours or disclose the nature of the building. Breach of the rules could lead to withdrawal of the licence, as could failure to pay the accommodation charge, violence, threatening behaviour, harassment or any behaviour which caused nuisance or annoyance to residents, visitors or staff. All members of staff had authority to ask her to leave immediately".

41. "On 30th October 2006, Ms. Moran was evicted from the refuge. The precise facts have never been found, but she had an argument with the staff, the police were called and

she was removed. She applied to the council as a homeless person on the same day. The council gave her temporary accommodation pending their decision, but next day they decided that because of her conduct, she had made herself intentionally homeless and therefore would have to leave her temporary accommodation in three weeks' time".

42. "On 6th March 2007, the decision was upheld on review. The reviewing officer determined that the refuge was accommodation available to Ms. Moran and her family which it was reasonable for her to continue to occupy".

43. At paragraph 36, the judge concluded that: "The language of both section 175(3) and 191(1) are looking to the future as well as the present. Both sections use the words 'Continued to'".

44. At paragraph 43, Baroness Hale refers to what is known as "The Manchester case" and that is where it had previously been held that a woman who has lost her home because of domestic violence remains homeless even though she has a roof over her head in the refuge.

45. Now, that is all-important when one considers the conclusion that was reached at paragraph 52. Baroness Hale said at paragraph 52: "Once it is decided that it would not be reasonable for a particular woman in a refuge to continue to occupy her place there indefinitely, it becomes unnecessary to decide whether the refuge is accommodation. Women will be homeless while they are in the refuge and remain homeless when they leave. A woman who loses her place there, even because of her own conduct, does not become homeless intentionally, because it would not have been reasonable for her to continue to occupy the refuge indefinitely. Nevertheless, we should do the parties in the Manchester case the courtesy of saying a few words upon the principal issue argued before us", and then there is further discussion.

46. Now, this is important, because if Hanwood House was occupied by the appellant by way of what is known as an excluded licence, it allowed the local authority to exclude him from those premises summarily, which they did on 29th July 2017 and therefore gave him little or no security of tenure. Therefore, it is argued on his behalf that it cannot be deemed to be accommodation.

47. If that is right, as I have already said, then whether or not he intentionally or deliberately caused his exclusion from those premises is irrelevant.

48. Now, this issue was considered quite carefully by the decision-maker in the decision dated 18th June 2019. She said at paragraph 11 as follows: "Following receipt of representations made by your solicitor on 5th April 2019, I made further enquiries with Hanwood House. They confirm that although this was a temporary placement where people can normally stay up to six months, after three months you would have been assisted into a self-contained flat with support. From there, you would be assessed if you needed further supported housing, shared accommodation or if you were able to live on your own, an appropriate accommodation would have been found for you. There was therefore when you moved there, a reasonable expectation of continuance of occupation for a significant period of time".

49. "The staff at Hanwood House advised me that you would not be homeless today if you had not assaulted a member of staff and had altercations with other residents". She

concludes in the final sentence of paragraph 11 that: "What caused the appellant's removal from Hanwood House was his involvement with the altercations and assaulting a member of staff, and if it was not for that, he would not be homeless today".

50. Now, there appears to me a real difference between the type of refuge referred to in the cited case and the facts that were found by the reviewer or the decision-maker in this appeal. She had gone out of her way to make enquiries as to what the nature of the accommodation was, and I am satisfied that the accommodation that she found and as described by paragraph 11 of her report, was sufficient whereby if the appellant had not been guilty of anti-social behaviour then he would have continued to occupy, with support, for the foreseeable future. Very different from the type of refuge that was described in the cited case with which the House of Lords were involved.

51. I remind myself of a few other points of law that the appellants took me to which are important to this appeal. Now, at paragraph 30 and 31, and there is no issue between the parties here, the appellant sets out the criteria under the Housing Act, i.e. reference to section 175 of homelessness. At paragraph 32 there is reference to section 191 of the Housing Act which refers to a person becoming homeless intentionally, and this is also addressed by the respondents at paragraph 16 to A20 of their skeleton argument and they both quote section 1.9 of the Housing Act 1986, sub-section (1) which provides as follows.

52. "A person becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy". Sub-paragraph (2): "For the purposes of sub-section (1) an act or omission in good faith on the part of the person who was unaware of any relevant facts shall not be treated as deliberate".

53. I was then referred to *R v Hounslow LBC ex parte R* [1997] 29 HLR 939, where the test is whether the loss of accommodation was the reasonably likely result of what the applicant did. I was reminded that "Deliberate" is to be given its ordinary meaning, the reference there is *Devonport v Salford County Council* [1983] 8 HLR 54 and further, one has to look back at the appellant's last settled accommodation to establish the reason for the appellant's current homelessness. Whether the accommodation is settled is a question of fact and degree in all the circumstances.

54. Then Ms. Rowlands referred me to the judgment of Mr. Justice Lightman which was referred to in *Doka v Southwark LBC* [2017] EWCA Civ 1532 by the Court of Appeal, where I quote: "For this purpose, the distinction is between settled, in the sense of reasonably secure or permanent accommodation, and insecure accommodation in the sense of precarious, temporary or transient accommodation. The epithet 'Secure' connotes accommodation in respect of which there are solid grounds for the reasonable expectation of continuance of occupation for the foreseeable future or for a significant period of time. There is no legal requirement as to the form of or the label that designates the legal character of the occupation. What matters is whether as a matter of fact the required security is available".

55. "For the purpose of determining whether the accommodation is secure, it is relevant whether the occupation is under a lease or a licence, but the fact that the occupation is under a lease or licence is in no way decisive. Relevant circumstances also include

(amongst others) the terms of the lease or licence, whether the grantor of the lease or the licence could lawfully grant it, the relationship between the lessor and the licensee and the lessee and the licensee, e.g. parent and child, husband and wife or partners, or employers and employee, the nature of the accommodation and the period for which the accommodation may be expected to continue and for which it has continued".

56. As I have already said, in paragraph 11 of her decision, Ms. Maniatis has set out her reasons why she felt that the accommodation was suitable as being the last settled home or address of the appellant. I have accepted those reasons. However, the matter does not end there. It is not a question for me to decide whether I accept her reasons or not, I have come to the conclusion that a properly-informed decision-maker, with all the facts before him, and taking into account all the relevant factors, could quite properly have come to the conclusion that she came to at paragraph 11 of her decision.

57. Now, I am going to turn to the grounds of appeal that are set out and repeated with some more substance to them in the skeleton argument of the appellant. The first ground, as I have already recorded, is failure to take relevant matters into account. It is said that the author of the decision failed to take into account adequately or at all that the complaints about the appellant's conduct of his tenancy arose around the same time as his dedicated support provided by the Housing First programme ceased. It is also said: "In analysing whether the appellant's conduct was deliberate, the council acted unlawfully and unfairly by failing to properly take into account the evidence from Darren Townsend".

58. "The decision letter dismissed Mr. Townsend's evidence and mainly copied from the appellant's original statement". It also said that insufficient weight was given to Dr. Ahmed's letter dated 30th October 2018 in which he linked the appellant's personality disorder to impulsiveness that led *inter alia* to abuse of drugs, etc.

59. I reject that criticism. One starts very simplistically to look at what it is that the decision-maker in her decision looked at, and this is set out in paragraph 2. As I have stated already, she looked at the statement that Darren Townsend had provided and she further had a conversation with the same Darren Townsend, in addition to which she looked at and had the letter from Dr. Ahmed. She looked at the letter from Hilary Reed, the duty worker at Lindon Clinic. She looked at the medical assessment questionnaire that I have already referred to dated 11th August 2017. She looked at an email from Zahima Osmani dated 10th August 2017. She looked at psychiatric reports dated April 2008 together with a number of other factors.

60. Now, under the heading: "Failure to take relevant matters into account", one has to bear in mind also, and there is no issue over this, that the decision-maker also says at page 2 of her report or decision, and I quote as follows: "In order to be able to make some additional enquiries in relation to your medical issues and current homelessness, I asked you to complete a consent form. Despite my and your solicitor's best efforts, you refused to give consent. I have therefore had to complete this review based on information available to me and limited information from Hanwood House".

61. There is a real issue in the interpretation of the medical evidence that has been provided. The conclusion I have come to is that Ms. Maniatis appeared to have accepted that medical evidence as it stands and come to her own conclusions about it. Even if she had wanted to take matters further and make enquiries of those who completed those

written submissions, she was not able to without the consent of the appellant. The appellant refused to give her that consent. Today she is criticised for interpreting that medical evidence and coming to a conclusion which the appellants say she ought not to have come to, when they did not allow her the opportunity to clarify the position at all.

62. However, in any event, at paragraph 31 of her decision, she says as follows and I quote: "According to your solicitor's representations, you decided to start drinking heavily and not take your medication as you were supposed to, which led to temporary aberration of mind. However, you were the one who decided to start drinking heavily, in other words, this was a wilful act on your part. You knew you needed to take medication on a consistent basis and you said in your interview that you cannot function without your medication, which means you were more than aware of the necessity to ensure you took your medication regularly. It was up to you on whether you wanted to start drinking or not and whether to take your medication as prescribed. It was not your mental health condition that caused you to drink heavily, but your heavy drinking and not taking your medication put you in a position that made you worse".

63. "This pattern of behaviour continued when you were in Hanwood House, where it was stated you started drinking alcohol despite the fact there was support available to you. I do not accept that you felt anxiety due to being given a place to reside after three months. You were aware this was a step to more permanent housing and you could reside at Hanwood House up to six months and be moved on to another placement. This meant on the balance of probabilities you would still be housed to this day as long as you followed the rules and engaged in the support".

64. At paragraph 32 she goes on to say: "In the medical questionnaire completed by Dr. Izavetki (?) you were noted to be independent and did not need assistance with daily living, and you had a community support worker. Dr. Izavetki noted your condition has crisis periods that are made worse when you use alcohol. However, it is not stated when you are in a crisis period you are unaware of your actions, but your alcohol use makes it worse".

65. "Hilary Reed, also of the Lindon Centre, confirmed on 18th June 2018 that you have inappropriate coping strategies such as drinking alcohol and you have been able to maintain abstinence until a recent crisis. Dr. Ahmed gave information on how your personality disorder affects you. This can include stormy relationships and intense anger, as well as impulsiveness that can lead to substance abuse or other issues with food, money, etc. However, none of these show that you did not know what you were doing when you decided to start drinking. Your solicitor is saying due to your drinking and not taking your medication, this led to your temporary aberration of mind. (I contend that you knew what you were doing, which I will deal with below) However, the temporary aberration of mind would not have happened if you had not started drinking and stopped taking your medication on a consistent basis".

66. Paragraph 33: "You have shown an awareness of some of the causes of your anti-social behaviour such as drinking and not taking your medication, which means that you caused your own issues. Your continued behaviour, even when you were in supported housing at Hanwood House, leads me to believe it is not the support that was the issue but the way you decided to conduct yourself. At Hanwood House you would be given assistance with addressing substance misuse and get more intensive support on your mental health issues".

67. She then at 34 refers to previous anti-social behaviour, run-ins with the law, violent behaviour and shows an ongoing pattern. There is reference to breach of the restraining order at paragraph 35. Then at 36 she says: "Given the above, I am not satisfied that your anti-social behaviour was due to an inability to manage your own affairs, mental illness or temporary aberrations caused by mental illness, substance misuse or frailty. I am therefore satisfied that your actions and behaviour were deliberate".

68. This is important: "In reaching this decision, I have had regard to the principles of the Equality Act 2010. I have given you the benefit of the doubt as far as possible, but there is significant evidence that you were aware of your actions and the impact that they would have on your ability to remain in this accommodation, and you cannot be said not to have been in control of your mind when you assaulted a member of staff".

69. Now, as I have said, there is ample evidence to support the conclusions reached by the reviewing officer simply by reference to the medical records that have been supplied by the appellant. That was her decision. However, I stand back and again, applying the test which I have to apply, I cannot say that the conclusion reached by the reviewing officer or the decision-maker is either perverse or irrational. There was evidence to support it. I cannot say that she took into account irrelevant factors and I cannot substitute my own reasoning for hers. For that reason, again, I find against the appellant on that particular issue.

70. So, ground 1, where it is alleged failure to take relevant matters into account, is rejected. Ground 2 is under the heading "PSED". It is said at paragraph 68 of the appellant's skeleton that: "The council's obligations under the PSED required it to give the appellant the benefit of any doubt and to accept Mr. Townsend's and Dr. Ahmed's evidence". I pause there. As I have already quoted, the decision-maker did give the appellant the benefit of the doubt where she could. It does not follow that she was obliged to accept Mr. Townsend's or Dr. Ahmed's evidence.

71. I have already addressed the Now Medical document and again, for the reasons I have already given, I reject ground 2. Ground 3, it is said that there was a failure to provide adequate reasons. I also reject this ground of appeal. I have already addressed the issue of the accommodation and, as I have quoted already, in her decision Ms. Maniatis gave substantial reasoning as to why she came to the conclusion that she did.

72. Ground 4, it is said there was irrationality and unlawful reliance on its own medical input. This is what the appellant's skeleton says: "The council's decision that the appellant was intentionally homeless was irrational given his protected characteristic of disability, his need for support, the effect of his mental health condition on his actions, the evidence of his treating professionals and the precariousness of the accommodation which he was asked to leave without the need for any court proceedings".

73. The decision-maker came to the conclusion that the appellant was the author of his own misfortune, in that by regularly taking excess alcohol and becoming anti-social, abusive, violent, not only on one occasion but on a number of occasions, it was inevitable that he would have been asked to leave Hanwood House in the way that he was.

74. I remind myself of what the Housing Act 1996 at paragraph 191 says under the heading "Become homeless intentionally". Sub-paragraph (1) provides as follows: "A person

becomes homeless intentionally if he deliberately does or fails to do anything in consequence of which he ceases to occupy accommodation which is available for his occupation and which it would have been reasonable for him to continue to occupy". There is no doubt in my mind that the decision-maker was entitled to come to the conclusion that she came to, that it was the deliberate actions of the appellant which caused his removal. For the reasons I have already given, the accommodation would have been available for him and it would have been reasonable for him to continue to occupy, for the reasons that she has given in her decision, after contacting Hanwood House and getting full details of how the scheme worked.

75. Therefore, I have no hesitation in concluding that she was perfectly entitled to come to the conclusion that he did intentionally and deliberately commit acts the consequence of which was that he was asked to leave Hanwood House.

76. There is in my mind nothing to support the assertion or the grounds that the decision itself ought to be quashed. At paragraph 43, Ms. Maniatis sets out the relevant questions and sets out in summary form her conclusions with the reasons given in the earlier ten pages of the document. I am satisfied that she was, on the evidence before me and taking into account the evidence that she considered, perfectly entitled to come to the conclusion that she did. Generally, there was nothing perverse or irrational about the decision that she came to, and there was ample evidence to support it.

77. I do not feel it is necessary to cover every point that was argued before me, but for the reasons I have given, I will dismiss the appeal.

This Judgment has been approved by the Judge.