

Report to the Constitution Working Group



Date of meeting: 22 March 2016

Subject: Discontinuation of the Housing Appeals and Review Panel

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Committee Secretary: Mark Jenkins (01992 56 4607)

Recommendations:

- (1) That, the Constitution Working Group recommend to Council that the Housing Appeals and Reviews Panel be discontinued with immediate effect;**
- (2) That responsibility for all Housing Appeals and Reviews currently within the scope of the Panel be delegated to the appropriate Assistant Director of Communities with any appropriate changes being made to the list of officer delegations; and**
- (3) That any consequential changes be made to the Council's Constitution.**

Report

Background

1. At its meeting on 13 March 1991 (Minute 91 (7) refers), the former Housing Committee agreed that the Council set up a Housing Management Appeals Panel under its revised Committee structure. At that time, any client of the Housing Directorate could appeal against (or request a review of) any decision made by an officer from the Housing Directorate on any Housing Management matter including all Statutory Homelessness Reviews and decisions concerning Improvement Grants.

2. Since the Panel was originally set up a number of changes have been made to reduce its scope due to the numbers of applications being made.

3. The current scope of the Panel was revised and agreed by Council at its meeting on 20 April 2010. As a result, housing clients can now only Appeal on the following specific issues:

(a) Whether a homeless applicant is intentionally homeless in accordance with the Legislation and the associated Code of Guidance;

(b) Whether any family is deemed to be not homeless;

(c) Housing succession cases, where the successor is under-occupying Council accommodation and has been required to transfer to smaller accommodation;

(d) Non-provision of discretionary home improvement grants;

(e) Refusal of requests for disabled adaptations to Council properties requested by the tenant;

(f) Refusal to sell Council-owned land under 50 square metres to occupiers for garden use;

(g) Refusal of requests from tenants for priority transfers under the requirements of the Council's Housing Allocations Scheme; and

(h) Disagreements with tenants and former tenants on the level of liability for current or former rent arrears.

Procedure at the Panel meetings

4. Prior to the meeting, the Appellant is provided with an application pack including guidance notes and invited to complete the application form and submit supporting evidence. At the Panel meetings the presenting officer presents their case and is questioned by the Appellant and the Panel Members. For the vast majority of cases, the Appellant will be in attendance often supported by a representative. The Appellant will present their case and be questioned by the presenting officer and the Panel Members. The Panel then deliberates and the Appellant is notified of the decision.

Number of cases considered by the Housing Appeals and Reviews Panel

5. The following table sets out the number and category of cases that have been considered by the Panel in the previous two years:

Year	Homelessness	Priority Move	Other	Total Upheld	Total Dismissed
2014/2015	7	0	0	2	5
2015/2016	6	1	0	0	7

Member and officer resources

6. As can be seen in the table above, the Panel only consider a small number of cases the majority of which are Appeals against homelessness (predominantly intentionality) decisions. However, the process is very time consuming and can be summarised as follows:

Presenting Officer

7. The presenting officer has to write a comprehensive report to the Panel with all associated papers attached as an appendix. Furthermore, the officer would spend some time preparing for the presentation. It is estimated that this would be around one full day's work including attendance at the meeting for on average 1 hour.

Democratic Services

8. Democratic Services would arrange the meetings of the Panel, book Committee Rooms, liaise with the Panel Members, bring together the Agendas, Minutes and the decision letter which has to be in accordance with the requirements of the Legislation and the associated Code of Guidance. The Democratic Services Officer would also communicate the decision by telephone to the Appellant the next day. It is estimated that this would be around one full day's work including attendance at the meeting for on average 2 ½ hours.

Advisor to the Panel

9. The advisor to the Panel is the Assistant Director (Housing Operations). In his absence the Panel are advised by the Director of Communities. The advisor would need to prepare in advance and, in addition to the Chairman of the Panel, agree the final version of the minutes and the decision letter to confirm it is correct and meets with legal requirements. It is estimated that this would be around one day's work including attendance at the meeting for an average of 2 ½ hours.

Members of the Panel

10. The Panel comprises 5 Members including a Chairman and Vice-Chairman and 5 substitute Members, 3 Members need to be in attendance for the Panel to be quorate. In addition to officer time, Panel meetings take up one afternoon of Members time, also the Chairman of the Panel has responsibility for agreeing the Minutes of the meeting. In addition, each Member would be expected to take around 2 hours to prepare.

Member training

11. The Assistant Director (Housing Operations) delivers training to Panel Members in May of each year. The purpose of the training is to explain some very complex legal issues around, in particular, homelessness. Arranging and providing the training is time consuming for both Members and officers.

Discontinuation of the Housing Appeals and Reviews Panel

12. The Assistant Director (Housing Operations) has brought to the attention of the Chairman of the Panel the amount of officer and Member time involved in the process. Furthermore, that any review undertaken by the Panel could be completed by a senior officer who specialises in such complex Reviews in around one half day or less compared to the 3 days of officers time and 1 day of up to 5 Members time needed for each case considered by the Panel.

13. Officers are not aware of any other Council where such decisions are taken by Member Panels and there is no statutory duty for Housing Appeals to be considered by Members. In addition, there is some doubt around the legality of Members making decisions on homelessness cases and the fact that any decision becomes a Member decision rather than an officer decision. Should any case proceed to Court there is likelihood that the Chairman of the Panel could be called to defend the Council's decision. It is also considered that offering such an Appeal can raise the hopes of applicants. Due to the increasing pressures on homelessness and the introduction of further welfare reforms, it is likely that the number of Appeals will increase.

15. Members are asked to note that similarly on recommendation of the Constitution and Member Services Scrutiny Panel, Council agreed at its meeting on 21 April 2015 (Minute 114 refers), that Step 4 review of complaints by the Member Complaints Panel be discontinued.

16. A report will be submitted to the Housing Portfolio Holder for consideration to be given to the appointment of an external company specialising in Homelessness Reviews to undertake Reviews currently undertaken by officers. If the Constitution Working Group agrees the recommendations and they are approved by Council, then it will be further proposed that Reviews undertaken by the Panel would be referred to the external company. If agreed, this would free up more time for senior homelessness staff to concentrate on the increasing demands of front-line homelessness prevention services.

17. The Chairman of the Panel agreed that consideration should be given to the discontinuation of the Panel. The Chairman has discussed the matter with 4 Members of the Panel who agreed in principle. The report has been circulated to all Panel Members and substitute Members inviting them to attend the meeting, any comments received from Members who are unable to attend will be reported orally at the meeting.

18. The Housing Portfolio Holder also supports the proposal subject to any views of all Panel Members and substitute Members.

19. The Constitution Working Group is invited to agree the recommendations.