

Social O&S Committee

**Task and Finish Group
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Councillor David Cartwright
Councillor Jack Field
Councillor Pattie Hill

Committee Membership Councillor Mark Shurmer (Chair)
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Councillor Kieth Boyd-Carpenter
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Executive Summary

Housing and Homelessness Appeals

We set out to investigate the means by which the Council handled second stage appeals by those who were either applicants to the Local Authority's allocation scheme or who considered that they should be eligible for assistance by virtue of their homeless status.

The review that we undertook was brief in that it focussed upon an internal process and one, moreover, that was relatively uncommon. The information upon which we reached our conclusions was gained primarily from interviewing the Officers most closely involved with the process and also the Chair of the Committee in question.

Careful consideration was given to the options open to us. The possibility of moving to a single stage appeal for either one or both of the processes was looked at, as was the necessity of Member involvement. At the conclusion of our deliberations we were not convinced that we wished to see Members relinquishing their role entirely as it was felt to bring a valuable perspective to the process. Conversely, moving to a single stage appeal raised the possibility of a tremendous additional burden on Members' time and was thus considered impractical. A further consideration was the impact of the new allocations policy, which had the potential to significantly alter the numbers of cases going to appeal.

Therefore, we recommend that the present system remains in place, pending a review at the end of the current calendar year.



Recommendations

The Committee is asked to RECOMMEND that

1. the present arrangement of a two-stage appeals process be retained, subject to further review at the end of 2007; and
2. all new Members of the Council be given training in the conduct of quasi-judicial meetings.



Introduction

Aims A decision was taken by the Social Overview and Scrutiny Committee on 13th September 2006 to establish a Task and Finish Group to review the Council's two-stage housing appeals process. The Group comprised Councillors Brunner, Cartwright, Field and Hill.

The terms of reference were agreed as follows:

- a) to investigate the benefits or otherwise of the Housing and Homelessness Appeals Processes adopted in the Council; and
- b) to make appropriate recommendations to the Social Overview & Scrutiny Committee at the outcome of the review.

The major question the Task and Finish Group needed to answer was:

Is the second stage of the Council's Housing and Homelessness Appeals process necessary?

Chair It was decided that the Group would not appoint a Chair for the duration of the review.



Background

Legislative Background

The most significant piece of legislation of which the Task and Finish Group had to be aware was the Housing Act 1996 as amended by the Homelessness Act 2002 and the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999

HOUSING APPEALS

Under the Housing Act 1996, Part VI, s.167 (as amended) applicants to a Local Authority's allocation scheme have the right to request a review or make an appeal against a decision made by a Local Authority.

In brief, any applicant to the allocation scheme has the right to appeal if they are unhappy with the decision made by the Local Authority on the following grounds:

- Where the applicant has been excluded from registration; and
- Where the applicant has been awarded a lower priority for re-housing than expected.



Background

HOMELESSNESS APPEALS

Legislative Background

The Housing Act 1996, Part VII, s.202 (as amended) gives the applicant the right to request a review of any decision made by the authority in the following circumstances:

- (a) any decision of a local housing authority as to his eligibility for assistance,
- (b) any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 and 195 and 196 (duties to persons found to be homeless or threatened with homelessness),
- (c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),
- (d) any decision under section 198(5) whether the conditions are met for the referral of his case,
- (e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred), or
- (f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e) or as to the suitability of the accommodation offered to him as mentioned in s.193(7) (Part VI offer)

The Housing Act 1996, Part VII s.204 (as amended) gives an applicant the right to appeal to the County Court if the applicant has requested a review under s.202 and is dissatisfied with the decision on the review, or has not been notified of the decision within the time prescribed by s.203 (eight weeks) and the appeal is on any point of law arising from the decision or, as the case may be, the original decision.



Discussion

The Council's system for Housing and Homelessness Appeals

Prior to 2003/04 The Council administered the appeals process through the Housing Management Sub-Committee (HMSC). Through the HMSC, Members were able to present cases on behalf of appellants and any subsequent recommendations were submitted to the Housing Committee and Council for consideration. This process led to considerable delays in getting decisions to appellants.

In 2003 the present system was introduced. Under this system, the original decision by Officers could be the subject of an appeal to another Officer of the Authority. Should the tenant or potential tenant still be dissatisfied with the outcome of the process, there was the opportunity for a second appeal to Members of the Housing Appeals Committee. The Housing Appeals Committee operates as a quasi-judicial body and there is therefore no requirement upon it to refer its decisions to a further body.

There is a distinction between the processes involved in dealing with appeals in Housing and Homelessness cases and this is reflected in the operation of the Housing Appeals Committee and also in the involvement of different Officers of the Council.



Discussion

The Group's Actions

In order to progress its review, the Group requested the following information.

1. Figures for the numbers of cases that reach each stage of the Council's Housing and Homelessness appeals processes;
2. Details of the appeals processes adopted at:
 - a) A large Metropolitan Borough; and
 - a) A similar sized authority that has retained its own housing stock.



Discussion

Appeals figures

Homelessness Cases

It was confirmed that there had been 53 reviews since August 2005, 17 of which were from August 2005 - March 2006; and 36 from April 2006 to December 2006.

The reviewing officer had overturned the decision in eight cases.

Three cases had subsequently been through the second stage appeal; in each case the Officer's decision has been upheld.

Housing Cases

It was confirmed that there had been five written requests for second stage appeals; four were upheld and the final case was thrown out.

It is difficult to provide figures for the number of cases reaching the first stage as the Housing Team tended to take a proactive approach; for example, if an Officer receives a phone call by someone not happy with their tenancy they will do a site visit and then produce a discretionary report – if necessary the Housing Services Manager can then award discretionary points without the need for appeal.

In general Housing Services are resolving as and when there is an issue with a tenant.

Many of these cases are related to medical issues; these need not be referred by the tenant themselves but could come from their Doctor, an Occupational Therapist or a Special Needs Officer.



Discussion

Methods used in other Authorities

Large Authorities

Sandwell Metropolitan Borough Council's housing stock is now managed by an Arm's Length Management Organisation (ALMO), Sandwell Homes. There appears to be **two stages** to the appeals process, a review stage and an appeal stage, both of which are run by Sandwell Homes.

Leeds City Council has approximately 67,000 properties which are managed by six ALMO's and one Tenancy Management Organisation. Leeds has a **single stage** appeals process which is undertaken by a panel of Senior Officers who were not involved with the original decision.

Similar sized Authorities who have retained their own housing stock

Broxtowe Borough Council owns approximately 4,700 properties and is a small Borough to the south of Nottingham. Broxtowe currently have the same two stage appeals process as Redditch Borough Council, however, they were thinking of changing to a single stage process and were keen to hear the outcomes of the review.

Warwick District Council owns over 5,000 properties; it also has a two stage appeals process similar to Redditch Borough Council.



Discussion

Expert Witness Interviews

The Group decided that two separate interviews would be undertaken to help inform their consideration of the process. These took place on the 6th December 2006.

The first involved Councillor Bill Hartnett, the Chair of the Housing Appeals Committee.

The second involved both Liz Tompkin, Head of Housing Services and Matthew Bough, Housing Policy & Performance Manager.

Members agreed questions for each of the witnesses; details of the agreed questions can be found in Appendices 1 and 2.



Conclusion

The Group considered that a single stage appeals process could be adopted within Redditch but that a number of consequent problems could be foreseen.

There did not appear to be particularly significant benefits in terms of Officer or Member time in moving to a system of single stage appeals. The Group was, on balance, also keen to retain a degree of Member involvement in the process.

The numbers of appeals currently coming before Members was very small and it was therefore concluded that the system was not leading to significant problems and any change would have minimal effect.

Members were keen to see how the new Choice-based letting system affected the numbers of appeals before recommending any changes. It was proposed that a report be submitted to the Social Overview and Scrutiny Committee in November/ December 2007 detailing the outcomes and effects of the new system.

The Group considered that there was merit in extending the pool of Members (and substitute Members) from which the Housing Appeals Committee could be drawn. To this end it was suggested that all new Members receive training in attendance at quasi-judicial meetings as part of their induction with the Council.



Expert Witnesses

**Redditch Borough
Council**

Councillor Bill Hartnett, Deputy Leader and Chair of the Housing Appeals Committee

Matthew Bough, Housing Policy and Performance Manager
Liz Tompkin, Housing Services Manager



Bibliography

Housing Act 1996

Homelessness Act 2002

Statutory Instrument 1999, no.71 – The Allocation of Housing and Homelessness (Review Procedures) Regulations 1999

Redditch Borough Council Housing Allocations Policy

Report to Council 7 July 2003 – Housing Appeals Committee – Allocations

Report to Council 18 April 2005 – Housing Appeals Committee – Terms of Reference etc.



Appendices

Contents Appendix 1: Witness Questions and Answers – Chair, Housing Appeals Committee

Appendix 2: Witness Questions and Answers – Redditch Borough Council Officers



Overview & Scrutiny

For additional copies of this report, or to find out more about Overview & Scrutiny at Redditch Borough Council please contact:

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