

Appendix 1

Appeals Task & Finish Group

(reporting to the Social Overview & Scrutiny Committee)

Wednesday 6th December 12.15pm Committee Room 1

T&F Membership : Councillor Juliet Brunner (JB)
Councillor David Cartwright (absent)
Councillor Jack Field (JF)
Councillor Pattie Hill (apologies)

Expert Witness : Councillor Bill Hartnett (BH), Chair of the Housing Appeals Committee

Interview Notes

1. Can you explain the actual process for the Council's Housing Appeals Committee in practical terms?

BH Council tenants or potential tenants in housing difficulty can appeal against the original decision to officers; if that outcome is still not to their satisfaction, they are given the opportunity for a second appeal to members. The appellants needs to present their case to members; they can do this alone or be supported by a friend, advocate or elected member. Members hear the case and then come to a decision.

JB Can you provide us with some historical context?

BH Under the old HMSC (Housing Management Sub-Committee) regime it was much easier for members of the public, as members were able to present the case on behalf of the appellant; many may now have an added fear factor to present their own case in front of a committee of elected members.

Members cannot allocate housing but can advise officers to give the appellant additional points; under the HMSC the recommendation had to go to the Housing Committee and full Council for approval and so it could be months before the appellant was informed of the outcome. Under this method, the decision does not need to go anywhere for approval as it is quasi-judicial.

The number of cases that get to members has gone down from approximately 50 a year to 5 a year. The need for housing has not reduced so either it must be more difficult for a tenant to navigate the process or tenants are not aware that there is an appeal mechanism. To request an appeal, tenants need to write to Officers (which may in itself be an issue) outlining grounds for the appeal. There is a danger that if it does not say "I appeal against this decision", then the letter may just appear as a complaint. I encourage tenants to clearly state that they are appealing against a decision.

2. What do you think is the individual's expectation of the appeals process? Is this ever achieved?

BH Yes, clearly the tenant's expectation is to get what they want or be allowed to be on the housing list. I should think that an appellants expectation would be to get what they perceive to be justice. If they are successful they would go further up the list and would eventually be housed by us or a RSL. Under the current process the tenant will know the outcome quicker than before as they will be in the room when the decision is announced.

3. We feel that the most appropriate method for conducting appeals might be a single stage consisting of a panel of one or two members and a senior officer. What are your thoughts on this suggestion?

BH It is always difficult to have an even number of members in a voting situation; if only two members are allowed to vote you could end up with a one-on-one situation. It would be unusual to allow an officer to vote in a member arena. There needs to be a bigger pool of members (in case of ward interest) and the committee itself should have a larger number of people; I would certainly not go for 1, that would be a democratic deficit. The smallest number should be 3, although I would be happier with 5; the Committee needs to have an odd number of members so 5 or 7 would be the ideal although you may need to look at proportionality. Senior officers should be there for advice and policy, particularly as the legislation is constantly changing. A single stage may increase the work flow for Members but I have no view on single or two stage appeals.

4. What are your thoughts as Chair, if the Housing Appeals Committee were to be abolished?

BH In a bold statement, I think that it would be a bad thing to do.
There always needs to be an appeals mechanism. I would not like it if it were just the officer appeal. There needs to be member involvement, we have different perspectives to officers. Officers have to work within the framework given whereas members can amend policy as necessary.

5. Could our suggestions have an adverse effect; if so, what on and how could this be minimised?

It was felt that Councillor Hartnett's answer to question 3 effectively covered this matter.

6. Is there an argument for two separate methods to deal with Housing and Homelessness Appeals, for example a single review panel as mentioned earlier for Housing Appeals, and a single review stage conducted by a senior officer for Homelessness cases?

BH I have no objection for there being two different methods as long as members know what needs to be done for each and are duly qualified for both; there are

slightly different legal nuances between the two.

I think that it would save time to have one panel for both. Homelessness cases tend to take more time and are during the day so that does exclude some members.

I do not agree to a single review stage with just Officers present as that would be a democratic deficit.

7. How do you think our suggestions could be practically implemented?

A change to the current Housing Appeals Committee could be simply implemented at the AGM or perhaps it could be possible to change mid stream following a resolution from Council. One would need to check the constitution of the Council.

8. Do you have any other suggestions for improvement?

BH Given that appeals are to help tenants and to justify our policy I think that we should be aiming to show that justice is being done.

I would also suggest running any suggested changes past the Borough Tenants Panel to see if they feel that the alternative model would be an improvement (I am not suggesting that BTP members should be put on the panel).

There is currently no way of assessing how people feel about the Appeals process as there is no exit strategy for; however as Chair, I always ask the appellant if they thought they had a fair hearing.

JF On behalf of the Appeals Task & Finish Group, I would like to thank you for agreeing to be interviewed, we appreciate the time you have spent with us.