

Rother District Council

Report to: Cabinet

Date: 27 June 2022

Title: Contracting out of Homelessness Reviews

Report of: Joe Powell, Head of Service Housing and Community

Cabinet Member: Councillor Byrne

Ward(s): All

Purpose of Report: To ensure that homelessness decisions issued under the Housing Act 1996 (as amended) are reviewed independently of the original decision maker, following the receipt of an appeal to a homelessness decision from a homeless applicant.

Decision Type: Non-Key

Officer

Recommendation(s): It be **RESOLVED**: That the:

- 1) Council's obligation to conduct reviews of homelessness decisions under sections 202 and 204 of the Housing Act 1996 (as amended) be noted; and
- 2) appointment of a new agent to fulfil the Council's obligations to review homelessness decisions under sections 202 and 204 of the Housing Act 1996 (as amended) be delegated to the Head of Service Housing and Community in consultation with the Portfolio Holder for Housing.

Reasons for

Recommendations: To ensure that reviews under the Housing Act 1996 (as amended) can be completed in-line with the Council's legal obligations under the Act.

Introduction

1. Housing law allows applicants to request a review of their homelessness decision made by a local authority under section 202 of the Housing Act 1996 (as amended) (the Act). The Council's Housing Needs Team issue a decision on an applicant's homelessness case and the legal duty that is owed to them. Applicants then have a right to request a review of this decision in writing if the request is received by the Council within 21 days of the date applicants are notified of the decision; further, an applicant is able to make a review of the section 202 review decision under section 204 of the Act.
2. The Council has for many years contracted the services of an independent agent to undertake reviews. The current contract is not performing effectively and the Housing Needs Team is undertaking a procurement exercise to appoint a new agent.

Homelessness Reviews

3. The Homelessness Code of Guidance 2018 states that a review may be carried out by the housing authority which made the original decision or by someone acting as an agent of the housing authority. Where the review is to be carried out by an officer of the housing authority, the officer must not have been involved in the original decision, and they must be senior to the officer (or officers) who took that decision.
4. The Local Authorities (Contracting out of Allocation of Housing & Homelessness Functions) Order 1996, enables housing authorities to contract out certain functions under Parts VI and VII of the 1996 Act. The small size of the Housing Needs Team means that it is sensible to outsource to external providers some of the homeless reviews and decisions, including carrying out investigations, making enquiries and other related activities. This is because senior officers are often involved in homelessness investigations, thereby leaving no one sufficiently independent to conduct the review. In addition, the use of an external provider can be a robust and cost-effective way of managing the Council's legal duty without the risk of being challenged on the grounds that a review was not wholly independent.
5. The average cost of reviews using an agent varies each year, depending on demand; however, typically the annual cost is approximately £8,000 to £9,000.
6. Members should also note that the appointment of an agent to conduct reviews is common-place amongst local housing authorities and, for example, all the housing authorities in East Sussex have such agents under contract.

Conclusion

7. The Council has a legal duty to undertake the review of homelessness decisions. The relatively small size of the Housing Needs team means that senior officers are often involved in homelessness decisions and are therefore not sufficiently independent of the original decision to complete the review. It is therefore recommended that the decision on the appointment of an agent to undertake section 202 and 204 reviews be delegated to Head of Service Housing and Community in consultation with the Portfolio holder for housing, following a procurement exercise in-line with local government procurement rules.

Financial Implications

8. The cost of reviews is included in the Housing Needs budget. The appointment of an agent to complete reviews will only happen following a procurement exercise that will consider value for money.

Legal Implications

9. The Council has a duty in legislation to complete reviews under sections 202 and 204 of the Act. The recommendation will allow the Council to fulfil these duties effectively.

Human Resources

10. Failure to appoint an agent to complete reviews for the Council will require it to recruit permanently a senior officer to conduct reviews independently.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	No
Environmental	No	Access to Information	No
Risk Management	No	Exempt from publication	No

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Appendices:	None
Relevant Previous Minutes:	None
Background Papers:	None
Reference Documents:	None