

# **Report of the Strategic Director, Corporate Resources and the Strategic Director, Place to the meeting of Regulatory and Appeals Committee to be held on 11 April 2019**

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**Subject:**

**AR**

**Housing and Non-Domestic Rates Appeals Panel**

## **Summary statement:**

**This report seeks the approval of the Regulatory and Appeals Committee to implement a change to the process for appeals currently considered by the Housing and Non-Domestic Rates Appeals Panel from a Member Appeals Panel to appeals being considered by a Senior Officer.**

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**Portfolio:**

**Corporate**

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**Regeneration, Planning & Transport**

**Overview & Scrutiny Area:**

**Corporate/ Regeneration and Environment**

## **1. SUMMARY**

This report seeks the approval of the Regulatory and Appeals Committee to implement a change to the process for appeals currently considered by the Housing and Non-Domestic Rates Appeals Panel from a Member Appeals Panel to appeals being considered by a Senior Officer.

## **2. BACKGROUND**

- 2.1 The Council's constitution, at Article 8.6.3, provides for an appeals process in relation to:

.....grants for renovation, improvement and repair (including appeals against refusals of disabled facilities grant in respect of Council and private housing), discretionary housing payments, the application of wheeled bin refuse collection arrangements, non-domestic rates relief, access to personal files.

to be considered by the Housing and Non-Domestic Rates Appeals Panel.

- 2.2 Appeals against these decisions are rare. There has never been an appeal against a decision in relation to wheeled bins nor access to personal files to this Panel. Further, Officers are not aware of any policy, nor legislation, that provides for such an appeal in relation to wheeled bins. Access to personal files is now governed by the Data Protection Act 2018 and the Council Information Security Policies provide for dealing with such requests, including what to do on refusal.
- 2.3 The Panel recently heard an appeal against a decision about Discretionary Housing Payments (DHP), although this was the first one in five years. The Government guidelines suggest a right of appeal against decisions in relation to DHP, but do not prescribe who should consider it.
- 2.4 The Council removed its Discretionary Rates Relief Scheme in 2017, as part of that years budget savings. Consequently, this only leaves appeals against decisions in relation to Hardship Relief. There has been one such appeal in the last five years. Legislation does not provide for an appeals process in relation to business rates relief, although good practice would dictate some form of review.
- 2.5 Appeals regarding Housing have mainly involved appeals against officer decisions relating to disabled facilities grants (DFGs) with 8 appeals having been considered by the Panel in the last 5 years, all of which involved DFGs.

## **3. OTHER CONSIDERATIONS**

- 3.1 At present the appeals panel consists of three elected members. It is proposed to change this to an Officer appeal usually conducted in writing which would be undertaken by a senior officer who was not involved in the original decision making process.

- 3.2 It is important that this appeal is, and is seen to be, fair and equitable to those who disagree with a decision made by the Council. It is recommended that the new process will be conducted by one of a number of Senior Officers, at 4<sup>th</sup> tier and above. Usually the appeal will be conducted in writing and decisions will be confirmed in writing to the appellant. This approach is consistent with the approach taken by other authorities.
- 3.3 The Member Development team have to commit resource to train new panel members and to maintain the knowledge level of existing members. This becomes particularly important, as the lack of cases to consider, makes maintaining the required knowledge more difficult.
- 3.4 Consequential amendments to the Council's Constitution will be needed if the Member panel is replaced by an Officer appeal by deleting Article 8.6.3 of the Constitution.
- 3.5 The only change required to Council policy would be to amend the Council's Comprehensive Housing Renewal Policy (CHRP) to reflect the change from an appeal to a panel of elected members to an appeal to a senior manager.

The Executive is responsible for decisions that give effect to policies. Under the Council's Constitution Article 14.20 Strategic Directors have authority to take decisions in relation to the Executive's functions within their area of responsibility.

When the Executive last approved the Comprehensive Housing Renewal Policy, on December 6<sup>th</sup> 2016, delegated authority was given to the Strategic Director to continue to make changes to the Comprehensive Housing Renewal Policy in consultation with the Portfolio Holder with responsibility for Housing.

Therefore in accordance with Article 14.20.3 the Strategic Director Place having consulted with the Executive Portfolio Holder could take the decision to amend the policy to reflect the change from an appeal to a panel of elected members to an appeal to a senior officer. The decision should be recorded in accordance with the provisions in the Council's Constitution.

- 3.6 The change to an officer appeal is not considered a controversial change and does not withdraw any benefit from service users and these changes could be introduced for the current financial year.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

- 4.1 There will be a saving of £7,411 in respect of the Chair of the Panel's Special Responsibility Allowance
- 4.2 There will also be a small saving in the administration of the process. This will include
  - 4.2.1 No longer having to train Panel Members, either new ones or existing ones when the rules change. This will be in Committee Secretariat, who arrange the training and in the various Services who no longer have to prepare and

present the training.

4.2.2 No longer having to hold Panels. Whilst the replacement appeal process will require administering it will not require Committee Secretariat support, who currently arrange and manage the Panel hearings.

4.3 These savings will not be significant and will allow those Services to redirect resources where they are most needed

4.3 The cost of the proposed officer appeal process will be absorbed in to current arrangements.

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

There are no significant risks arising out of the implementation of this recommendation.

## **6. LEGAL APPRAISAL**

The legal implications are as detailed in the Report.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

No equality impacts identified

### **7.2 SUSTAINABILITY IMPLICATIONS**

None

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

None.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

None.

### **7.5 HUMAN RIGHTS ACT**

Service users will continue to have a right of appeal, usually undertaken in writing.

### **7.6 TRADE UNION**

No Trade Union implications.

### **7.7 WARD IMPLICATIONS**

None

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS  
(for reports to Area Committees only)**

None

**7.9 IMPLICATIONS FOR CORPORATE PARENTING**

None

**7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

None

**8. NOT FOR PUBLICATION DOCUMENTS**

None

**9. OPTIONS**

9.1 Replace the right of appeal to the Housing and Non-Domestic Rates Appeals Panel with the Officer appeal process set out in this report

9.2 Retain the Non- Domestic Rates Appeals Panel, but remove reference to wheeled bin and access to personnel files appeals.

**10. RECOMMENDATIONS**

10.1 That the option to replace the right of appeal to the Housing and Non-Domestic Rates Appeals Panel with the Officer Appeal process be approved.

10.2 That the Committee recommends to Council:

(i) That the Housing and Non-Domestic Rates Appeal Panel be abolished and appeal decisions in relation to grants for renovation, improvement and repair (including appeals against refusals of disabled facilities grant in respect of Council and private housing) be delegated to the Strategic Director, Place and appeal decisions in relation to discretionary housing payments and non domestic rates relief be delegated to the Strategic Director, Corporate Resources.

(ii) That the proposed amendments to the Constitution as set out in paragraph 3.4 of the report be adopted.

(iii) That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution.

**11. APPENDICES**

None

**12. BACKGROUND DOCUMENTS**

None