

<b>SUBJECT:</b>	<b>REVIEW OF THE HOUSING APPEALS PANEL PROCEDURES</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE AND TOWN CLERK</b>
<b>REPORT AUTHOR:</b>	<b>LEGAL &amp; DEMOCRATIC SERVICES MANAGER</b>

## **1. Purpose of Report**

- 1.1 To update Council on changes to the Housing Appeals Panel (HAP) Procedures agreed at the meeting of the Executive on 30 October 2017 and seek approval to amend the Constitution accordingly.

## **2. Executive Summary**

- 2.1 The key changes agreed to the HAP procedures are outlined below and further detailed in section 4 of the report.

- To reflect legislative changes to:
  - Review decisions to seek possession of dwelling-houses on absolute grounds for anti-social behaviour as required by section 85ZA of the Housing Act 1985.
  - Review decisions to seek possession of dwelling-houses following a Demoted Tenancy under section 82A of the Housing Act 1985.
- General update to the procedures wording to better reflect the HAP's remit.
- Amendments to further formalise how the HAP meetings will be conducted.
- Creation of section 13 which sets out a clear role for the Chair and allows the Panel to take more of an active role within proceedings.
- Standardisation of Housing Officer recommendations and HAP decisions whilst still allowing the Panel to exercise their discretion.

## **3. Background**

- 3.1 Recently, it became apparent that a number of procedural changes needed to be addressed within the HAP procedures to update them in view of the legal framework and give a clear idea of roles for both members and officers.
- 3.2 Following the decision to address these changes the procedures have been updated and circulated to HAP members including the Chair and Vice-Chair, the Tenancy Services Manager, Estate Officer Team Leaders and Housing Officers have been consulted on the proposed changes. No negative comments or changes have arisen from this process.

## **4. Details of Changes**

- 4.1 The following are the agreed changes to the HAP procedures. The revised procedures can be found at Appendix 1, Appendix 2 contains the current version for member's information.

Review decisions to seek possession of dwelling-houses on absolute grounds for anti-social behaviour as required by section 85ZA of the Housing Act 1985.

Several Notices of Possession were granted on absolute grounds for anti-social behaviour since 2016. Until the procedures were reviewed this element of legislation was not reflected within the Panel's remit and therefore wording to allow these reviews to take place has been inserted.

Review decisions to seek possession of dwelling-houses following a Demoted Tenancy under section 82A Housing Act 1985.

In addition the HAP procedures required amendment to allow demoted tenancy reviews to take place where an officer takes the decision to demote the tenancy. Officers can demote a tenancy under S.82A of the Housing Act 1985, this means that a secure Tenant will become a Demoted Tenant. A Tenancy can be Demoted for 12 months and during this time it is easier for the authority to evict a Demoted Tenant than it is to evict a Secure Tenant. This legislation has now been reflected within the procedures to allow this review to be carried out.

- 4.2 General update to the procedures wording to better reflect the HAP's remit.

During the review it was found that numerous areas that the HAP were reviewing was duplicated elsewhere in the authority. These areas of the procedures have now been reviewed and where necessary removed. This ensures that the panel only review decisions made where it is set up to do so and makes this process as efficient as possible.

- 4.3 Amendments to further formalise how the HAP meetings will be conducted.

As part of the review of the procedures a clear process of proceedings was required to guide officers throughout the process of submitting review request applications to Democratic Services, and during the course of the Panel meeting when presenting tenant's cases to the Panel. Examples of this is the right to have an interpreter present for the hearing as outlined in s.7 and S.8 which sets out the timeframe within which a review must be heard.

- 4.4 Creation of section 13 which sets out a clear role for the Chair and allows them to take more of an active role within proceedings.

Section 13 of the report was created to define the clear roles and responsibilities of the Chair, and provides clear guidance for the Chair to take an active role. The Chair must now ask the Housing Officer what their recommendation to the panel is so that this can be formally recorded by the Clerk. The Tenant will then be allowed an opportunity to respond to this.

#### 4.5 Standardisation of Housing Officer recommendations and HAP decisions whilst still allowing the panel to exercise their discretion.

Clear guidance has been provided to officers to offer a set of recommendations when reviewing decisions to seek possession, this in essence makes it clear for members and officers regarding the potential outcomes of the Panel and prevents confusion for the tenant by ensuring a consistent and transparent decision making process is in place. The revised recommendations of the Panel are as follows:

1. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant and authorise court proceedings for possession of the dwelling-house.
2. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending a further review of the case by the Panel.
3. Uphold the Director of Housing and Regeneration decision to serve Notice of Proceedings on the Tenant but to stay the application for possession to the court pending monitoring by officers of a consistent and acceptable pattern of payment of the rent arrears.
4. Extend the period of the introductory tenancy by six months and either options 2 or 3 above apply.

N.B this is only an option if the Appeal hearing is at least eight weeks before the twelve month introductory tenancy period ends.

5. Rescind the Notice of Proceedings.

- 4.6 The Procedure formalises how a review hearing can be postponed or adjourned under S.10 and S.11. of the Housing Act 1985. Both the Tenant and the Housing Officers have the right to request a postponement or an adjournment but a hearing can only be postponed once. Where a hearing has been adjourned or a further review is requested the new procedure requires that wherever possible the same Panel will sit on the next hearing. This will mean that a further hearing can be dealt with quickly and that only new evidence will be considered. Where it is not possible to reconvene the same Panel the Clerk to the Panel will summarise the evidence already heard at the postponed hearing.

## 5. **Strategic Priorities**

### 5.1 Let's Deliver Quality Housing

These changes will allow the Council to carry out its statutory duty to provide tenants with a review process when faced with eviction under an introductory tenancy, as well as clarifying the procedures. This in turns provides a service to Council customers whilst allowing the Council to maintain its housing stock and ensure that rent arrears are kept to a reasonable level within the HRA.

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

None.

### **6.2 Legal Implications**

This report brings the current procedures carried out by the HAP Panel and responsibilities of Housing Officers, Chair and Vice-Chair in line with working arrangements with current legislation to allow the panel to carry out its function efficiently and effectively.

### **6.3 Equality, Diversity & Human Rights**

These were considered and there are no direct equality and diversity issues arising from this report in view of the fact that these procedures will be applied to all tenants and such considerations will form part of any HAP process in any event. The formalisation of the right to an interpreter to be present during the appeal means that HAPs are now more accessible.

## **7. Risk Implications**

### **7.1 There are no risks associated with these change in procedures.**

## **8. Recommendation**

### **8.1 That the Constitution be amended to reflect amendments to the Housing Appeals Panel Procedures agreed by the Executive on 30 October 2017.**

**Is this a key decision?** No

**Do the exempt information categories apply?** No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

**How many appendices does the report contain?** 3

**List of Background Papers:** None

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