

 Executive 5 April 2017		Agenda Item No. 3
Title	Housing Appeals and Review Panel	
For further information about this report please contact	Simon Brooke Sustaining Tenancies Manager, Housing Services 01926 456433 simon.brooke@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive January 2015	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes 840
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	14.3.17	Chris Elliott
Head of Service	14.3.17	Bill Hunt
CMT	14.3.17	Bill Hunt
Section 151 Officer	14.3.17	Mike Snow
Monitoring Officer	14.3.17	Andy Jones
Legal	8.3.17	Max Howarth
Portfolio Holder(s)		Peter Phillips
Consultation & Community Engagement		
Consultation has taken place with Legal Services at Warwickshire County Council and with all Borough and District Councils within the Warwickshire area.		
Final Decision?	No	
If approved the recommendations would be for Council to determine.		

1. Summary

- 1.1 This report seeks approval to establish streamlined processes to complete reviews of decisions undertaken in Housing Services. This is proposed to be a combination of the end of formal review mechanisms for some decisions and others where a statutory duty to undertake reviews exists to move away from councillor involvement in these review decisions.

2. Recommendation

- 2.1 That Executive recommends to Council the following changes to the Constitution:
- (i) cessation of the Housing Appeals and Review Panels, as set out in Appendix 1
 - (ii) revised delegation to the Head of Housing to “determine reviews or appeals made in relation to decisions of Housing Services where the Council either has a statutory duty to provide such a review or appeal or where we have set out a non statutory review or appeal process in our policies or procedures”.
- 2.2 That subject to the Council approving the revised arrangements the Deputy Chief Executive (BH) in consultation with the Housing Portfolio be authorised to approve the appropriate procedures for handling these cases.
- 2.3 That subject to the Council approving the revised arrangements the Deputy Chief Executive (BH) in consultation with the Housing Portfolio be authorised to approve any minor amendments to other housing policies to remove reference to Housing Advice and Review Panels.

3. Reasons for the Recommendation

- 3.1 The recommended changes bring forward better processes for the undertaking of reviews and appeals against decisions of Housing Services. It is expected that this will bring a level of consistency of approach and a better delineation of responsibilities between councillors and officers.
- 3.2 Recent cases heard by the Housing Appeals and Review Panel (HARP) highlighted some issues with the operation and detail of our procedures in this area. This led to a review the procedures that we have in place.
- 3.3 Our legal advisors at the County Council had made a number of suggestions to change our processes. This has led to a reflection on the best way of proceeding as Officers are aware of a gradual move away from councillor involvement in decision making on individual cases to a more strategic management role.
- 3.4 Checks have now been made with all the other authorities in the Warwickshire area. This has confirmed that none of these now involve councillors in the review mechanisms. All have robust procedures that ensure that they meet the statutory obligations to undertake reviews.
- 3.5 If these changes are agreed, officers are confident that effective mechanisms will be put in place for undertaking reviews and appeals. This would ensure that officers undertaking any reviews or appeals would have the necessary independence; they would not have been involved in the management of the

case prior to the review; and they would be more senior and hence not encumbered from reversing decisions if this was necessary.

- 3.6 This change in our processes will allow reviews to proceed more quickly and efficiently. There is inevitably more work and potential delay in constituting the current arrangement of a councillor panel than would be necessary with an officer led review.
- 3.7 Over the past few years, there have been on average only two cases a year, where the matter is considered by a Housing Appeal Review Panel. There is associated time and cost of providing training and briefings for Councillors to ensure that they can undertake these reviews competently. While some training will be required for officers, those involved will already have the technical knowledge and skills to undertake the role as part of their day to day work. There would also be a saving as there would not be a need to involve a Warwickshire County Council solicitor or involve a Committee Services Officer to support a Panel.
- 3.8 Officers are already undertaking reviews in other areas within Housing Services without councillor involvement; most notably the review arrangements for homelessness decisions and decisions relating to housing allocations. These arrangements are working well. The majority of reviews undertaken by Housing Services fall into this category and the changes recommended bring other areas in to line with this approach.
- 3.9 It is suggested that procedures currently in use for HARP, will be amended and put in place for Officer led reviews. It is envisaged that in all cases the review will involve an officer reviewing the case that will not have been involved with the management of the case and will be more senior than the officer who has agreed the original decision. These procedures will be in place following the approval of Council for this change.
- 3.10 As part of this change of processes, it is intended that we stop formal review mechanisms for certain decisions. These decisions are anyway subject to a complaint and review by a manager and so not warrant a more formal procedure. Other decisions are more serious and there is a statutory requirement to carry out a formal review of the decision. In these cases a formal officer led review mechanism will be required.

Current appeals that can be heard at HARP	Proposed future actions
Appeals against intention to request eviction warrants (rent arrears).	No formal review mechanism required
Appeals against service of Notice of Seeking Possession in respect to Nuisance or Conditions of Tenancy (excepting rent arrears).	No formal review mechanism required
Appeals against refusal of permissions under Conditions of Tenancy, e.g.:- <ul style="list-style-type: none"> • Running a business • Erecting structures etc. 	No formal review mechanism required
Appeals against refusals to carry out	No formal review mechanism

disabled adaptations to a Council property.	required
Appeals against the service of a Notice of Proceedings for Possession in respect of an Introductory Tenancy	Statutory right of appeal, HARP will be replaced with officer led appeal process
Appeals against the service of a Notice to extend an Introductory Tenancy.	Statutory right of appeal, HARP will be replaced with officer led appeal process
Appeals against the service of a Notice to Seek Possession of a Demoted Tenancy.	Statutory right of appeal, HARP will be replaced with officer led appeal process
Appeals against a decision not to award the Resettlement Service.	No formal review mechanism required
Appeals against the service of a Notice of Seeking Possession under the Anti-Social Behaviour, Crime and Policing Act 2014	Statutory right of appeal, HARP will be replaced with officer led appeal process

- 3.11 Our tenants that are subject to an appeal still have statutory rights to the courts; and to judicial review where the Council has either acted irrationally, unlawfully or not in accordance with the procedure provided by law or the Council's own policy and procedures. These are safeguards that are currently in place and will not be affected by the changes proposed.

4. Policy Framework

- 4.1 **Policy Framework** – These proposed changes involve changes to the constitution and amendment to relevant Housing Services policies.
- 4.2 **Fit for the Future** – The changes proposed bring us in to line with considered best practice in the operation of reviews. By doing so will reduce the time involved in processing reviews and therefore enhance the service provided to tenants.

5. Budgetary Framework

- 5.1 There are no budgetary implications.

6. Risks

- 6.1 The proposed changes will ensure that we follow considered best practice in the division of officer and councillor responsibilities in the way that reviews are conducted. This will also allow councillors to concentrate on their strategic role and their scrutiny function in the management of the Housing service.
- 6.2 The risk will remain that we do not have adequate procedures in place to undertake reviews that comply with our statutory responsibilities. Following this change to responsibilities we intend to complete the review of the procedure and agree this with our legal advisors. This will ensure that the risks are addressed.

7. Alternative Option(s) considered

- 7.1 Council may decide to continue with the current function of the Housing Appeals and Review Panels. This is considered as not best practice and not the most effective way of using our resources.

8. Background

- 8.1 The Housing Appeals and Review Panels carry out a variety of appeals some of which are undertaken as part of a statutory duty to carry out a review and others are additional matters we have included voluntarily. The full list is attached in Appendix 1. None of the statutory responsibilities for review suggest that councillors should be involved in undertaking these reviews.
- 8.2 The last time that this matter was reviewed was in January 2015. At that time new review responsibilities were introduced with the passing of the Anti-social Behaviour, Crime and Policing Act 2014. At that time other reviews were removed from the remit of the panel.

Appendix 1

F. **HOUSING APPEALS AND REVIEW PANEL (3 Members from the approved list of Members retained by the Monitoring Officer)**

To exercise delegated powers as follows:-

- i Appeals against intention to request eviction warrants (rent arrears).
- ii Appeals against service of Notice of Seeking Possession in respect to Nuisance or Conditions of Tenancy (excepting rent arrears).
- iii Appeals against refusal of permissions under Conditions of Tenancy, e.g.:-
 - Running a business
 - Erecting structures etc.
- iv Appeals against refusals to carry out disabled adaptations to a Council property.
- v Appeals against the service of a Notice to extend an Introductory Tenancy.
- vi Appeals against the service of a Notice to Seek Possession of a Demoted Tenancy.
- vii Appeals against a decision not to award the Resettlement Service.
- viii appeals against the service of a Notice of Seeking Possession under the Anti-Social Behaviour, Crime and Policing Act 2014