
CHANGES TO THE ARRANGEMENTS TO THE APPEALS COMMITTEE AND LICENSING COMMITTEE

1 PURPOSE OF REPORT

1.1 This report seeks to

- Amend the arrangements for homelessness application appeals.
- Amalgamate the Appeals Committee and the Licensing Committee into one Committee renamed the Licensing and Appeals Committee, the membership of which will be the current Licensing Committee.

1.2 The changes suggested by this report will remove all items of business from the Appeals Committee which will enable it to be wound up. This in turn will provide efficiency in line with new legislative changes under the Homelessness Reduction Act 2017 and, in the long term, reduce costs and officer time for the Council.

2 HOMELESSNESS REDUCTION ACT 2017

2.1 Following the implementation of the Homelessness Reduction Act 2017 (The Act) there is a need to amend the Council's appeal arrangements in relation to homelessness reviews, which is the right to request a review of decisions made by the Council, in regard to the homelessness support process.

2.2 The Act has amended and increased the review measures, which now cover all relevant prevention and relief decisions that can affect an applicant's journey. The Council's current discretionary appeal procedures are now out of step with the provisions of The Act.

2.3 In practice, The Act means that applicants can now ask the Council to review an extended range of decisions and, if still dissatisfied, can appeal to the County Court on a point of law. The County Court can confirm or quash the Authority's decision.

2.4 Under current legislation and guidance an applicant has a maximum of 21 days to request a review from the date s/he was notified of a decision made by the Council. These reviews would normally be carried out by the Housing Option's Team Leader, the 'reviewing officer,' and the applicant must be notified in writing of the reviewing officer's decision. The time a review process should take is set out in regulations.

2.5 Applicants must, by law, be informed in writing by the Council whenever a decision carrying a statutory right to request a review has been made. It will inform them of the decision itself, their right to request a review of that decision, and how long they have to request such a review.

- 2.6 If an applicant is dissatisfied with a decision on review or if the prescribed time limits are not complied with, an applicant has the right to appeal to a County Court on a point of law within 21 days.
- 2.7 Under the Council's current policy, in addition to this formal appeal to the County Court, a further tier of appeal is available to any applicant, where they remain dissatisfied with the reviewing officer's decision and their case can be considered further by the Appeals Committee. The ability to have the case considered by the Appeals Committee is not a statutory obligation, but an additional discretionary step which the Council provides. This local appeal procedure is out of step with the provisions of The Act and guidance.
- 2.8 The Act has significantly extended the range of decisions where an applicant can request a review in line with the new prevention and relief duties. This means that, under the current policy, an applicant could have their case considered by the Appeals Committee at every new stage. This would be impracticable to administer and, because it is not a required statutory step, adds nothing further to the appeals process. In addition, convening and operating an Appeals Committee meeting for each review stage would be a labour intensive exercise placing unnecessary strain on the Council's resources. No other local authority in Essex has a similar discretionary step of a review by Members.
- 2.9 It is proposed, therefore, that the Council should discontinue with immediate effect its current policy of providing an intermediary appeal route to the Appeals Committee. Instead the applicant must, as the law states, be informed in writing by the Council whenever a decision carrying a statutory right to request a review has been made. The Council will inform them of the decision itself, their right to request a review of that decision, and how long they have to request such a review.

3 PROPOSED LICENSING AND APPEALS COMMITTEE

- 3.1 Given the recent legislative changes to homelessness applications, it is proposed that any remaining business, such as taxi licensing appeals, policies and internal reviews for the community right to bid, could be dealt with by one Committee. It is also proposed that the remaining functions of the Appeals Committee be moved under the remit of the Licensing Committee which be renamed the Licensing and Appeals Committee. Appeals would be heard by a Sub-Committee of the Licensing and Appeals Committee.
- 3.2 The Licensing and Appeals Committee would also deal with business under the new Animal Welfare Regulations, the details of which are in a separate report to Council.

4 TAXI LICENSING APPEALS

- 4.1 The Appeals Committee at present also considers appeals in relation to licences such as Hackney Carriage, Private Hire and any operators' licences,

as well as dealing with any Licence Conditions and Policy amendments. The current procedures allow for the Assistant Director, Legal Services to recommend and notify the Appeals Committee that, due to a severe infringement of the conditions, an immediate suspension or revocation has been imposed. Members of the Appeals Committee receive the report and consider whether to 'call in' the matter to be heard by the Committee. If no Members make this referral then the decision is that of the Council and is issued accordingly. This allows for expediency where the infringement involves a safeguarding issue.

- 4.2 If Members agree to the amalgamation of the two Committees, this will not have an impact on the procedures currently in place.

5 COMMUNITY RIGHT TO BID

- 5.1 The Assets of Community Value (England) Regulations 2012 provided local community groups with an opportunity to bid for buildings and other land when they are for sale on the open market which they consider important to the community's social well-being. A nomination is made to the Council and a decision by the Assistant Director, Legal Services in consultation with the Portfolio Holder for Community is to be made within eight weeks as to whether the land or buildings should be included on the list. If the Council decides to place an asset onto the nominations list, the owner of the property will be notified.
- 5.2 An internal review may be sought if the owner of the land or building is unhappy with the decision within eight weeks of the date of that decision, which is heard by the Appeals Committee.
- 5.3 If the owner is not satisfied with the outcome of the internal review then they have the right to appeal to the general regulatory chamber of the First Tier Tribunal against the Council's decision.
- 5.4 Any requests for an internal review could be heard by the proposed new Licensing and Appeals Committee.
- 5.5 Any further appeal to the Council's decision can be made to the First Tier Tribunal by the applicant.

6 RESOURCE IMPLICATIONS

- 6.1 Financial resourcing of the Appeals Committee is made up of a Chairman's and Vice-Chairman's allowance; the amalgamation of this Committee with the Licensing Committee will generate a saving of £2,550 per year on the Member Allowance budget.

7 LEGAL IMPLICATIONS

- 7.1 The changes to the homelessness reviews will reflect the current legislation under the Homelessness Reduction Act 2017. To keep the additional

discretionary step of an appeal to Members may complicate the legislation and the Regulations. The Council needs to ensure that the applicant's right to review to the County Court has not been compromised.

7.2 There are no other legal implications.

8 EQUALITY AND DIVERSITY IMPLICATIONS

8.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

9 RECOMMENDATION

9.1 It is proposed that Council **RESOLVES**

- 1) That the policy of providing an intermediary appeal route to the Appeals Committee is discontinued.
- 2) That the Licensing Committee absorbs the functions of the Appeals Committee and is renamed the Licensing and Appeals Committee, the membership of which is the same as the current Licensing Committee.



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Background Papers:-

None.

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