

SUSTAINABLE DEVELOPMENT, PLANNING AND TRANSPORT COMMITTEE

20 FEBRUARY 2018

PART I – PART DELEGATED

4. CONTRACTING OUT OF HOMELESSNESS REVIEWS TO AN INDEPENDENT REVIEWER (DCES)

1. Summary

1.1 Officers are seeking authorisation to contract out the function of homelessness reviews as part of TRDC's statutory duties set out in Section 202 of the Housing Act 1996 (as amended by the Homelessness Act 2002, Localism Act 2011 and Homelessness Reduction Act 2017). The Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996 enables the Council to authorise external providers to undertake these functions on behalf of the Council.

2. Details

2.1 Customers seeking the Council's assistance because they consider they are homeless may, under S202 of the Housing Act 1996 (as amended), request a review of decisions made by the Council on their case on a range of issues including:

- The decision made on their homeless application;
- Whether a statutory duty to house is owed to them under the Act;
- Whether accommodation the Council has offered is suitable as temporary accommodation (S193) or as discharge of the Council's duty.

2.2 The Homelessness Reduction Act (HRA) 2017 significantly increases the number of decisions that can be reviewed from five to thirteen. The new rights of review will include:

- The actions that the Council take in the customer's personalised housing plan (PHP) at the prevention duty;
- The decision to bring the prevention duty to an end;
- The actions that the Council take in the customer's personalised housing plan (PHP) at the relief duty;
- The decision to bring the relief duty to an end;
- The decision that a customer has deliberately and unreasonably refused to co-operate with the Council.

2.3 Any S202 review must be completed within 56 days from receiving the request to review a decision.

2.4 Since 2011 the Council has contracted out its review function to one provider. During this time the Council has been legally challenged on the contracting out process previously followed. To date all challenges have been successfully defended.

2.5 It should also be noted that, as the Council only has the use of one provider, this proves challenging due to the limited capacity of the provider resulting in delays in decisions being made. This has also resulted in the threat of legal challenge for not issuing the decision within the required timeframe.

3. Options/Reasons for Recommendation

- 3.1 Section 202 reviews may be carried out by the Council (by a more senior officer who had no part in the original decision) and/or by contracting out this function to an independent reviewer with sufficient expertise and knowledge.
- 3.2 Although the Council has been contracting out review decisions since 2011, it has retained the option of conducting some reviews itself. The Council generally completes the reviews relating to the suitability of accommodation. However, all other decisions are signed off by the Housing Options Manager and as the legislation prescribes that any review must be conducted by a more senior officer who had no part in the original decision, this means that the only officer able to conduct other reviews would be the Head of Housing Services.
- 3.3 It would not be possible for the Head of Housing Services to conduct all other reviews due to the capacity of the officer. Therefore, the option of the Council retaining the review function would require additional officers to be recruited which would come at significant cost to the Council. This option was therefore discounted at this stage.
- 3.4 In December 2017 the Council, in partnership with Watford Borough Council, went out to competitive tender on a framework agreement. The framework agreement approach involves selecting a series of providers, through a tender process, to form a panel of suppliers. The Council would then “call-off” a contract with each supplier that it intends to seek review services from. The Framework Agreement length would be four years. Call-off contracts under the framework agreement may extend beyond that term, if awarded prior to the end of the framework agreement term.
- 3.5 A framework agreement approach would enable the Council to increase the number of providers it can work with and so be in the best position to respond in a timely and flexible way to the increased reviews workload envisaged under the HRA.
- 3.6 Given the legal challenges the Council has faced in the past and that increased review workload requires access to more than one reviews provider, Committee is requested to approve the framework agreement option and contracting out of services related to our homelessness reviews function as per the recommendations below.
- 3.7 Full Council will be asked to note and endorse the Decisions of the Committee.

4. Policy/Budget Reference and Implications

- 4.1 The recommendations in this report are consistent with the Council’s current arrangements and agreed budgets.

5. Financial Implications

- 5.1 Provision for the predicted increase in reviews has already been factored into the budget for 2018/19, based on the reviews being contracted out. If Committee does not agree to homeless reviews being contracted out then an independent reviews officer will need to be recruited which would come at significant cost to the Council.

6. Legal Implications

- 6.1 Legal implications are contained within the body of the report. Legal Services have agreed the recommendations within the report.
- 6.2 There have additionally been legal challenges on the issue of whether a local authority can delegate its Equality Act 2010 responsibilities. There will need to be processes in place to ensure that the Council complies with its responsibilities under the Equality Act in each case.
- 6.3 The Human Rights of homeless applicants are protected through their statutory right to request reviews of local authority decisions taken on their homeless application.

7. Equal Opportunities Implications

- 7.1 Relevance Test

Has a relevance test been completed for Equality Impact?	Yes / No
There is no proposed change to current policy in that the Council already contracts out its homeless reviews function.	

8. Staffing Implications

- 8.1 There will be a need to monitor the performance of providers appointed through a call-off contract. This will be undertaken by the Housing Options Manager, as has been the case for the current provider.

9. Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

- 9.1 None specific.

10. Risk Management and Health & Safety Implications

- 10.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 10.2 Any risks resulting from this report will be included in the risk register and, if necessary, managed within the Housing Service Team Plan.
- 10.3 The following table gives the risks if the recommendation(s) are agreed, together with a scored assessment of their impact and likelihood:

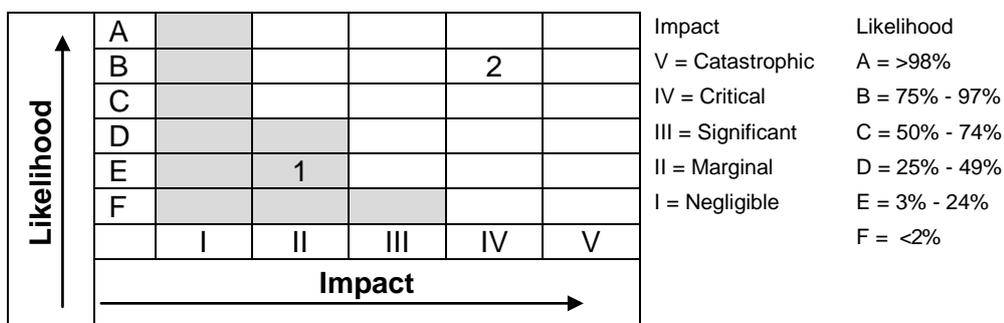
Description of Risk	Impact	Likelihood
1 Legal challenge to the function being contracted out	II	E

- 10.4 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk	Impact	Likelihood
2 The Council will not be able to fulfil its statutory obligation of conducting homeless reviews	IV	B

10.5 Of the risks detailed above none is already managed within a service plan.

10.6 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



10.7 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

11. Recommendation

11.1 That Committee:

11.2 Agree to the use of a framework agreement as referred to in paragraph 3.6 above and any subsequent framework process undertaken to enable the Council to appoint suppliers to undertake homelessness reviews and other related work;

11.3 Delegate to the Head of Housing Services the authority to select and appoint the suppliers to the Framework panel;

11.4 Delegate approval of the specific terms of any framework agreement and associated contract documentation to the Head of Housing Services, in consultation with Legal Services;

11.5 Delegate under Article 3 of the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Function) Order 1996 the function of undertaking homelessness reviews under section 202 of the Housing Act 1996 and related homelessness reviews work to the selected framework panel providers on behalf of the Council.

11.6 To Council:
To note and endorse this Report and the Decisions of the Committee.

Report prepared by: Kimberley Grout, Head of Housing Services

Data sources: none

Background Papers - Specification for a Framework Agreement for the provision of a Homelessness s202 Review Service