

Scrutiny Standing Panel Agenda



Housing Scrutiny Standing Panel Thursday, 31st May, 2012

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Mark Jenkins (The Office of the Chief Executive)
Tel: 01992 564607 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors S Murray (Chairman), A Mitchell MBE (Vice-Chairman), K Chana, Mrs A Grigg, Ms J Hart, Mrs S Jones, D Stallan, H Ulkun and Mrs J H Whitehouse

SUBSTITUTE NOMINATION DEADLINE:

18:30

1. APOLOGIES FOR ABSENCE

2. SUBSITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

4. NOTES OF THE LAST TWO PANEL MEETINGS (Pages 5 - 18)

To agree the notes of the last two meetings of the Panel held on 5 and 13 March 2012 (attached).

5. TERMS OF REFERENCE (Pages 19 - 20)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. The Terms of Reference only are attached. The Panel are asked at each meeting to review them.

6. CALL-IN CABINET DECISION ON FIRE SAFETY IN FLAT BLOCKS (Pages 21 - 48)

To consider a call-in of the Cabinet's Decision on 'Fire Safety in Flat Blocks' (C-067-2011/12). Call-in papers and report are attached.

The Committee noted that following further consideration and in accordance with the Overview and Scrutiny procedure rule 20(3), the Chairman had determined that consideration of the call-in be referred to the Housing Scrutiny Standing Panel as that Panel has previously discussed the matter in detail.

The following documents are attached:

- (a) Report submitted to the Overview and Scrutiny Committee on 17 April 2012 – page 21;
- (b) Notification of Call-In – page 25;
- (c) Report to the Cabinet 12 March 2012 – page 27;
- (d) Letter to CLG Rt Hon. B Neill MP 8 July 2011 Appendix 1 – page 36;
- (e) Letter to Councillor J Knapman from Essex County Fire and Rescue Service 18 June 2010 Appendix 2 – page 37;
- (f) Letter to P Pledger, Assistant Director of Housing, from Essex County Fire and Rescue Service 26 December 2011 Appendix 3 – page 39;
- (g) Letter to Councillor J Knapman from Essex County Fire and Rescue Service 2 February 2012 Appendix 4 – page 40;
- (h) Extract from Cabinet Decision Sheet for Cabinet Meeting held on 12 March 2012 – page 41; and
- (i) Overview and Scrutiny Procedure Rules – page 43.

7. FUTURE MEETINGS

The following scheduled meetings are listed below:

- (a) Thursday 28 June 2012 at 5.30p.m. Extra-Ordinary Meeting regarding Fire

Safety for Park Homes in the Council Chamber;

- (b) Tuesday 24 July;
- (c) Tuesday 23 October;
- (d) Tuesday 29 January 2013; and
- (e) Tuesday 19 March

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EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee:	Housing Scrutiny Standing Panel	Date:	Monday, 5 March 2012
Place:	Committee Room 1, Civic Offices, High Street, Epping	Time:	5.30 - 8.55 pm
Members Present:	A Mitchell MBE (Vice-Chairman, acting as Chairman), Ms R Brookes, Ms J Hart, D Stallan, H Ulkun, Mrs J H Whitehouse and Hyde (Tenants and Leaseholders Federation)		
Other Councillors:	J Knapman and Mrs M McEwen		
Apologies:	S Murray, Mrs A Grigg and Mrs S Jones		
Officers Present:	A Hall (Director of Housing), L Swan (Assistant Director (Private Sector & Resources)) and M Jenkins (Democratic Services Assistant)		
Also in attendance:	A Chowns (CPC Project Services LLP) and P Wilson (Wilson Associates)		

47. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Mrs J Lea was substituting for Councillor Mrs A Grigg.

48. ELECTION OF VICE-CHAIRMAN

In the absence of the Chairman, the Vice-Chairman took over the Chairmanship and proposed that Councillor D Stallan serve as Vice-Chairman for the duration of the meeting.

RESOLVED:

That Councillor D Stallan serve as Vice-Chairman for the duration of the meeting.

49. DECLARATION OF INTERESTS

There were no declarations of interest made pursuant to the Member's Code of Conduct.

50. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 31 January 2012 be agreed.

51. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

The following was noted:

(i) The following items were being deferred to the July 2012 meeting of the Panel:

- Item 17 Housing Service Strategy on Repairs and Maintenance
- Item 18 Housing Service Strategy on Energy Efficiency
- Item 19 Housing Service Strategy on Home Ownership
- Item 21 Housing Service Strategy on Rent Administration

(ii) Item 25 The Annual Review of the Housing Allocations Scheme would be discussed in October 2012, it was advised that there was likely to be a fundamental change in the scheme.

(iii) Item 29 Licences for Park Home Sites. Officers were awaiting more information from Essex Fire and Rescue Service. It was hoped that an extra-ordinary meeting of the Panel would be scheduled some time in April 2012, otherwise it would be arranged for June 2012. The Panel were advised that it had been proposed by the Council's management Board that one representative of the Park Home Site owners and one representative of park homes resident's associations should be invited to speak at the meeting. However, both groups had asked that all site owners and representatives of all residents associations should be able to speak at the meeting. Officers therefore asked the Scrutiny Panel to determine the number of speakers that should be invited from each group.

RESOLVED:

That at the extra-ordinary meeting of the Housing Scrutiny Standing Panel convened to discuss licences for park homes sites, the following public speaking arrangements be made:

(1) That two representatives from the Park Home Site Owners in the District be permitted to speak regarding licence conditions for park homes; and

(2) That two representatives from park home residents associations in the District be permitted to speak regarding licence conditions for park homes.

It was noted that the meeting would be webcast.

(iv) Item 32 Homelessness Strategy. This item was being held over to July 2012.

52. OUTCOME OF PRIVATE SECTOR HOUSE CONDITION SURVEY AND PROPOSED NEW PRIVATE SECTOR RENEWAL STRATEGY

The Panel received a report from the Assistant Director of Housing (Private Sector and Resources) regarding Private Sector Housing Strategy 2012 – 15.

The report sought the Panel's endorsement of the draft Private Sector Housing Strategy (PSHS) covering the period 2012 – 2015. The draft strategy implemented changes to the polices set out in the previous PSHS 2007 – 2011 for financial assistance to promote the repair and improvement of sub-standard private sector

housing and the adaptation of properties where there was a person with a disability. It also implemented changes to policies in the previous PSHS dealing with the enforcement of private sector housing standards and for giving advice, assistance and specialist support.

The District Council has a responsibility for keeping housing conditions within its borders under review, enforcing statutory standards to ensure satisfactory conditions in the private housing sector and offering financial assistance to repair and/or improve sub standard dwellings. Alongside these, a mandatory duty to provide Disabled Facilities Grants (DFGs) also existed.

By invitation, Mr A Chowns gave a presentation on the Private Sector House Condition Survey on behalf of CPC Project Services LLP and Mr P Wilson gave a presentation on the draft Private Sector Housing Strategy on behalf of Wilson Associates. The presentation slides used are attached to these notes.

RECOMMENDED:

- (1) That the Panel recommends the Draft Private Sector Housing Strategy 2012 – 15 for further consultation with key partners and stakeholders, with appropriate comments being incorporated in the final version of the Strategy;
- (2) That the final version of the Strategy be submitted to the Cabinet with recommendation that it be formally adopted; and
- (3) That the Panel monitors progress with the Action Plan on an annual basis.

53. CONSIDERATION OF PROPOSED LIST OF HOUSING IMPROVEMENTS AND SERVICE ENHANCEMENTS AND RECOMMENDATIONS TO CABINET

The Panel received a report from the Director of Housing regarding Housing Improvements and Service Enhancements – HRA Financial Plan.

At its meeting on 5 December 2011, the Cabinet approved the strategic approach to the new 30-Year HRA Financial Plan. The agreed approach was to plan the repayment of the required loans to fund the CLG's debt settlement over a 30 year period. This enabled the Council to maintain the housing stock to a modern standard, implement a new Council Housebuilding Programme and allow a lower rent increase in April 2012 than assumed by the Government. It also allowed for an additional £770,000 per annum to fund housing and service improvements. The Cabinet had asked the Panel to consider and recommend a proposal list of housing improvements and service enhancements, utilising the additional funding. A proposed list of 14 housing improvements and service enhancements were submitted to the Panel, they were as follows:

- (a) Acceleration of the Programme to install mains-powered smoke detectors in every Council property within 4/5 years
- (b) Provision of a free Handyperson Scheme for older and disabled tenants living in sheltered and other Council accommodation
- (c) Increasing the Disabled Adaptations Budget for one year
- (d) Conversion of existing toilet facilities in communal areas of sheltered housing schemes and community halls into disabled toilets

- (e) Refurbishment of the Common Room and Kitchen Area at Jessopp Court, Waltham Abbey
- (f) Expansion and refurbishment of the Council's Play Area on the Princesfield Estate, Waltham Abbey
- (g) Making the existing temporary Part time Housing Officer (Social Housing Fraud) post permanent and full time (already recommended to the Cabinet)
- (h) Creation of a Senior Housing Officer (Social Housing Fraud) Post
- (i) Installation of Key Safes at Sheltered Housing Schemes
- (j) Creation of a new Post of Housing Under-Occupation Officer
- (k) Increasing the existing budget for Estate Improvements and Enhancements
- (l) Expansion of the VAEF Garden Maintenance Scheme for Older and Disabled Tenants
- (m) Provision of additional dog waste bins on housing estates
- (n) In-Year Housing Improvements and Enhancements Fund

At the meeting, it was suggested an additional proposal of providing a one-off grant of £10,000 to the Furniture Recycling Scheme Project that was trying to establish itself within the District, which the Panel agreed to include within the list recommended to the Cabinet.

It was estimated that the following additional funding could be made available within the Financial Plan for further housing improvements and service enhancements in future years:

- (i) An additional £750,000 per annum from April 2013;
- (ii) A further £250,000 per annum from April 2017;
- (iii) The bringing forward of the previously planned £4.7 million increase by one year in April 2019; and
- (iv) An additional £250,000 per annum in April 2019.

It was proposed that a further recommendation be made to the Cabinet that, at its meeting in January 2013, the Panel consider and recommend to the Cabinet the use of both the remaining and any additional funding available within the HRA Financial Plan for housing improvements and service enhancements in 2013/14 and future years.

The Tenants and leaseholders Federation had considered the proposals in advance of the Panel meeting and had supported all the proposals put forward by officers.

RECOMMENDED:

- (1) That, the Panel reports to the Cabinet and recommend the list of Housing Improvements and Service Enhancements funded from the

£770,000 per annum budget included within the 30-Year HRA Financial Plan as a result of the HRA self-financing arrangements;

(2) That, the Cabinet be asked to record the detailed recommendations emboldened in the Cabinet minutes;

(3) That a recommendation be made to the Cabinet that, at its meeting in January 2013, the Housing Scrutiny Standing Panel consider and recommend to the Cabinet the use of both the remaining and any additional funding available within the HRA Financial Plan for housing improvements and service enhancements in 2013/14 and future years, after consultation with the Tenants and Leaseholders Federation;

(4) That the Panel's report to the Cabinet be based on the content and approach of the report by officers to the Panel; and

(5) That the Panel Chairman present this report to the Cabinet on the 23 April 2012.

54. HOUSING STRATEGY ACTION PLAN - 6 MONTH PROGRESS REPORT

The Panel received a report from the Director of Housing regarding the Housing Strategy - Six Month Progress Report on Key Action Plan 2011/12 and production of a new Housing Strategy.

At its meeting in September 2009, the Cabinet adopted the Housing Strategy 2009-2012. The Housing Strategy assessed the District's current and future housing needs and set out the Council's approach to meeting those needs. The strategy also included a Key Action Plan which set out the proposed actions that would be taken by the Council to contribute towards the achievement of the housing objectives over the first year of the Housing Strategy. The Cabinet also agreed that the Key Action Plans should be produced and updated on an annual basis for approval by the Cabinet and that progress with the Key Action Plans should be monitored on a 6 monthly basis by this Panel.

It was originally anticipated that the Housing Strategy would cover the three year period 2009-2012 and would be updated during 2012 to cover the following three years. However, there were a number of important issues that were expected to be concluded by the Council over the next year which would have a significant impact on the strategy. These included:

- A refresh of the Council's Strategic Housing Market Assessment;
- The production of the Council's Strategic Housing Land Assessment through the "Call for Sites" exercise;
- The production of the Council's Draft Local Plan, which would set out the Council's proposed plans on the number and proposed location of new homes in the District; and
- The Council's decisions on housing issues relating to the Localism Act, including a revised eligibility criteria for the Council's Housing Register and the possibility of the introduction of fixed term flexible tenancies by the Council, instead of "lifetime" secure tenancies.

Under these circumstances, it was not considered yet possible to formulate a robust and sustainable Housing Strategy for the next three years.

Therefore, it was suggested that consideration should be given to advising the Housing Portfolio Holder that the production of the next Housing Strategy be deferred for one year, and produced in 2013/14. In the meantime, it was further suggested that an updated Housing Strategy Key Action Plan for 2012/13 be considered by the Panel in July 2012, and that progress with the Action Plan be then monitored on a six monthly basis by the Panel in the normal way.

RECOMMENDED:

- (1) That the 6 Month progress Report on the Housing Strategy Key Action Plan 2011/12 be noted;
- (2) That a recommendation be made to the Housing Portfolio Holder that:
 - (a) The production of the next Housing Strategy be deferred for one year, and be produced in 2013./14, due to the number of issues that are expected to be concluded over the next year; and
 - (b) That, in the meantime, a further Housing Strategy Key Action Plan for 2012/13 be considered by the Housing Scrutiny Standing Panel in July 2012 for recommendation to the Cabinet, with progress monitored on a six-monthly basis by the Panel.

55. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

There were no reports being submitted to the forthcoming meeting of the Overview and Scrutiny Committee.

56. FUTURE MEETINGS

The next meeting of the Panel was scheduled for Tuesday 13 March 2012 at 5.30p.m. in Committee Room 1.

CHAIRMAN

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF HOUSING SCRUTINY STANDING PANEL
HELD ON TUESDAY, 13 MARCH 2012
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 5.30 - 8.08 PM**

Members Present: S Murray (Chairman), A Mitchell MBE (Vice-Chairman), Ms R Brookes, K Chana, Mrs A Grigg, Ms J Hart, Mrs S Jones, D Stallan and Mrs J H Whitehouse

Other members present: Mrs M McEwen

Apologies for Absence:

Officers Present A Hall (Director of Housing), P Pledger (Assistant Director (Property and Resources)), R Wilson (Assistant Director (Operations)) and M Jenkins (Democratic Services Assistant)

57. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitute members present.

58. DECLARATION OF INTERESTS

(1) Pursuant to the Council's Code of Member Conduct Councillors S Murray, Mrs A Grigg and Mrs J Whitehouse declared a personal interest in the following item of the agenda by virtue of being related to armed forces personnel. The Councillors maintained that their interests were not prejudicial and that they would remain in the meeting for the duration of the meeting and voting thereon:

- Item 5 Council Response to CLG Consultation Paper on Revised Allocations Code of Guidance

(2) Pursuant to the Council's Code of Member Conduct, Councillor Mrs M McEwen declared a personal interest in the following item of the agenda by virtue of being a member of the Women's Royal Air Force Association. The Councillor maintained that her interest was not prejudicial and that she would remain in the meeting for the duration of the meeting and voting thereon:

- Item 5 Council Response to CLG Consultation Paper on Revised Allocations Code of Guidance.

59. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

The following was noted:

(i) Item 27 Provision of Smoke Detectors in Communal Blocks or Council Properties

A report had been submitted to the Cabinet on 12 March 2012 at which they had generally agreed with the Portfolio Holder's recommendations, adding that carpets in common parts of flat blocks should not be allowed and after a four month period from the date of the decision made, the removal of carpets where residents had previously loose laid or fitted them, and had not removed them voluntarily be enforced by the Council unless certain conditions were not within the four month period as advised by the Chief Fire Officer of the Essex County Fire and Rescue Service. Officers would confirm these instructions to tenants in writing.

(ii) Item 29 Presentation and Review of the Success of the Council's Social Housing Fraud Pilot Scheme and Consideration of Recommendations to the Cabinet

The Cabinet, at its meeting on 12 March, agreed to make both permanent and full time the post of Housing Officer (Social Housing Fraud).

Although separate from the Panel's Terms of Reference and Work Programme it was noted that at the last Panel meeting, the Chairman had sent his apologies because of a 24 hour OFSTED Inspection at his school.

60. COUNCIL RESPONSE TO CLG CONSULTATION PAPER ON REVISED ALLOCATIONS CODE OF GUIDANCE

The Panel received a report from the Assistant Director of Housing regarding a suggested Council response to the CLG Consultation Paper on a revised Allocations Code of Guidance.

In January 2012, the Department for Communities and Local Government issued a consultation paper on "Allocation of accommodation: guidance for local housing authorities in England. The closing date for responses was 30 March 2012.

Chapter One

(1) Does your allocations scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?

Response: Yes. Tenants who wished to "downsize" were given both Band One priority and also received a financial incentive.

(2) Do you intend to revise your allocation scheme in order to make it easier for under-occupying social tenants to downsize to more appropriately sized accommodation?

Response: Members would give the matter consideration later in the year, once the final guidance had been issued.

(3) If so, what changes to your allocations scheme will you be considering to make it easier for under-occupying tenants to downsize?

Response: The Government could consider removing any penalties for refusals of tenancy offers for those downsizing and also reducing the age restriction for occupying bungalows for those downsizing.

Other comments: Paragraph 1.7 of the consultation stated that transfer applicants with “reasonable preference” were to be treated on the same basis as new applicants, whereas authorities could set their own transfer policies for these applicants who did not have reasonable preference. Therefore, this meant that any priority could be given to transfer applicants who were not entitled to reasonable preference. There should be provisions for preventing any authority from prioritising in this way.

Chapter Two

Other comments: The Council welcomed paragraph 2.5 for the opportunity of having its own eligibility criteria for its waiting list and the proposal that an applicant could be treated as ineligible if they were guilty of serious unacceptable behaviour.

With regards to paragraph 2.6 of the consultation, the Council consider it very unfortunate that the existing legislation allowed for a right to a review on eligibility as this would be difficult to administer.

Chapter Three

(4) Do you agree that members of the Armed Forces and former Service personnel should not be disqualified on residency grounds? Is 5 years from the date of discharge an appropriate time limit for this restriction? If not, what would be a more appropriate period?

Response: The Council supported the proposal that members of the armed forces and former service personnel should not be disqualified on residency grounds. However it was believed that an appropriate time limit would be 3 years from the date of discharge because this was considered a more appropriate period within which they could have found settled accommodation. “Members of the armed forces and service personnel should be more clearly defined than was set out under Section 374 of the Armed Forces Act. Did this include clerical workers for example?”

(5) Does the draft guidance provide sufficient clarity on how to implement the new power for housing authorities to set their own allocations qualification criteria? If not, in what areas would more guidance be useful?

Response: It could be made more clearer that if an applicant had “reasonable preference” but did not meet the eligibility criteria for joining the housing register, then they could still be excluded from the list,

Chapter Four

(6) Do you agree that the bedroom standard is an appropriate measure of overcrowding for the purpose of according reasonable preference? If not, what measure do you consider would be more appropriate?

Response: No. Bearing in mind the shortage of accommodation it was considered reasonable for same sex persons to share a bedroom irrespective of their age. Therefore, it was suggested that there should be the following two bullet points included in Paragraph 4.11:

- Married or cohabiting couples; and
- Two persons of the opposite sex over the age of 18 years.

(7) Should this guidance provide advice on how to define “overcrowding” for the purpose of according additional preference? If so, would an appropriate measure be two bedrooms or more short of the bedroom standard?

Response: The Council considered that “overcrowding” should be determined based upon the current requirements of the Housing Act Part X.

(8) How does your allocations scheme currently define “overcrowding” for allocation purposes? Does it, for example, use the bedroom standard, the statutory overcrowding standards in Part X of the Housing Act 1985, or another definition? If the last of these please provide brief details.

Response: “Where the permitted number, in accordance with the provisions of S.326 of the Housing Act 1985 is exceeded.” However, applicants lacking a bedroom were also given some priority.

(9) The Government proposes to regulate to require housing authorities to frame their allocations scheme to provide for former service personnel with urgent housing needs to be given additional preference for social housing. Do you agree with this proposal?

Response: The Council generally supported the proposal. It would be helpful if paragraph 4.19 was clearer. Did this mean that former members of the Armed Forces would be given additional preference above those applicants who were already in reasonable preference categories?

(10) Does your allocations scheme already make use of the flexibilities within the allocation legislation to provide for those who have served in the armed forces to be given greater priority for social housing? If so, how does your scheme provide for this?

Response: No

(11) If not how do you intend to take advantage of the flexibilities in the allocation legislation to provide for former members of the armed forces to be given greater priority for social housing? If so what changes might you be considering?

Response: The Council did intend to provide greater priority for members of the Armed Forces for social housing. Members would be considering the matter on receipt of the final guidance. The Council welcomed the proposal to disregard any lump sums received by a member of the Armed Forces as compensation for injury or disability sustained on active service.

(12) Does your allocations scheme already provide for some priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, how does your scheme provide for this?

Response: The District Council’s scheme gave some priority to applicants who were needing to move to be nearer to their place of work, or to take up a permanent offer of employment, or a long term training opportunity which may lead to employment.

(13) If not, do you intend to revise your allocations scheme to provide for more priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, how does your scheme provide for this?

Response: Members would be considering whether or not they wished to give further priority to people who were in work, on receipt of the final guidance. It may be difficult to define what “contributing to the community” means.

(14) Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?

Response: The Council considered that there was a marked difference between an adopter and a foster carer as adoption was a more long-term permanent arrangement. If the Council decided to use Flexible Tenancies in the future, these could be granted to adopters and foster carers for an appropriate fixed-term and be reviewed at the end of the period under the assessment criteria. The guidance may want to include this approach as a possible way of dealing with prospective adopters and foster carers. It was suggested that Children’s Services should notify the Council when an appropriate point had been reached in the adopting/fostering process where any person was likely to be accepted.

(15) Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation schemes?

Response: Yes, subject to the comments made under each consultation question.

Under paragraph 4.38 of the consultation, officers felt that providing an additional bedroom for carers who were not residing at the property could be open to abuse and the potential waste of a bedroom. The Council would currently only consider granting an additional bedroom if a carer was living at the accommodation as their only, or principle home and could demonstrate that they had given up permanent accommodation to enter into the arrangement.

RESOLVED:

(1) That the CLG Consultation paper “Allocation of Accommodation: Guidance for Local Authorities in England,” be noted; and

(2) That the proposed Council response to the consultation be agreed.

61. HOUSING REVENUE ACCOUNT BUSINESS PLAN KEY ACTION PLAN 2011/12 - 12 MONTH PROGRESS REPORT

The Panel received a report from the Director of Housing regarding the Housing Revenue Account Business Plan Key Action Plan (2011/12) – 12 Month Progress Report.

In March 2011, the Council’s Housing Revenue Account (HRA) Business Plan for 2011/12 was produced, incorporating the Repairs and Maintenance Business Plan. This document set out the Council’s objectives, strategies and plans as landlord, in relation to the management and maintenance of its own housing stock.

RESOLVED:

That the Housing Revenue Account Business Plan Key Action Plan (2011/12) – 12 Month Progress Report be noted.

62. HRA BUSINESS PLAN AND REPAIRS/MAINTENANCE BUSINESS PLANS 2012/13

The Panel received a report from the Director of Housing regarding the proposed Housing Revenue Account (HRA) Business Plan 2012-13.

The Government's Department of Communities and Local Government (DCLG) required all local authorities to produce annual Business Plans for their Housing Revenue Accounts (HRAs). The CLG's intention was to ensure that local authority housing was used and maintained to maximum effect. HRA Business Plans dealt with council's plans and performance for the delivery and quality of its housing services to tenants. Detailed guidance was issued by the former ODPM (the predecessor to the CLG) which prescribed the form in which business plans must be produced, and included the requirement for clear repair and maintenance strategies to be set out and, ideally, for detailed financial forecasts to be produced for thirty years hence.

It was suggested that an item be added to the Panel's Work Programme for next year for a presentation on the progress made by Mears, the Council's External Repairs Management Contractor. This could possibly be considered at the July 2012 panel meeting.

RECOMMENDED:

(1) That the Housing Revenue Account (HRA) Business Plan 2012/13, incorporating the HRA Financial Plan and the repairs and Maintenance Business Plan 2012/13 be recommended to the Housing Portfolio Holder for adoption; and

(2) That an item be added to next year's Panel Work Programme regarding a presentation on the progress made by the External Repairs Management Contractor.

63. HOUSING DIRECTORATE'S SERVICE STRATEGIES ON EMPTY COUNCIL PROPERTIES, OLDER PEOPLE'S SERVICES & HOUSING AND NEIGHBOURHOOD MANAGEMENT

The Panel received a report from the Assistant Director of Housing regarding the Housing Directorate's Service Strategies on Empty Council Properties, Older People's Services and Housing and Neighbourhood Management.

The Housing Directorate's Service Strategies were originally produced around 15 years ago in accordance with an agreed standard framework, and had since been updated. The strategies provided more detail than the main Housing Strategy on the various housing services provided. In total, 17 Housing Strategies had been produced to date.

RECOMMENDED:

That the Housing Directorate's Service Strategies on Empty Council Properties, Older People Services and Housing and Neighbourhood Management be recommended to the Housing Portfolio Holder.

64. SOLAR PV TO COUNCIL HOUSING

The Panel received a report from the Assistant Director of Housing (Property) regarding Solar PV to Council Housing.

The Panel had previously considered and supported a feasibility report into the installation of solar photovoltaic panels on Council-owned properties throughout the District. However, shortly after that decision was made, the Government announced a significant cut in the amount of grant known as the "Feed-In Tariff" (FIT), which would help off-set the high one-off capital cost of installing Solar PV to generate electricity.

The scale of the change had caused some turmoil in the industry, with many installers either ceasing to trade or writing-off significant investment. Therefore the number of installers available to tender would be far more limited than before which would lead to higher costs.

RESOLVED:

That the proposed further feasibility study into the installation of Solar PV on Council-owned buildings be suspended, following the Government's recent decision to significantly reduce the level of Feed-In Tariff.

65. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

The Chairman advised that he would give verbal updates and the next meeting of the Overview and Scrutiny Committee meeting in April on the following:

- (a) Council response to CLG Consultation Paper revised Allocations Code of Guidance; and
- (b) HRA Business and Repairs/Maintenance Business Plans 2012/13.

66. FUTURE MEETINGS

This was the last panel meeting for 2011/12 and Councillor Mrs R Brookes took the opportunity of thanking officers, Panel Members and the Housing Portfolio Holder for their work over the last year. She also extended particular thanks to Councillors D Stallan and Mrs A Grigg for their approach and helpfulness.

It was advised that there would be an extra-ordinary meeting of the Panel scheduled possibly in April to discuss licences for park homes. The programme of meetings for the next year was as follows:

- (a) Tuesday 24 July 2012 at 5.30p.m. in Committee Room 1;
- (b) Tuesday 23 October at 5.30p.m. in Committee Room 1;
- (c) Tuesday 29 January 2013 at 5.30p.m. in Committee Room 1; and
- (d) Tuesday 19 March at 5.30p.m. in Committee Room 1.

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TERMS OF REFERENCE - STANDING PANEL

Title: Housing

Status: Standing Panel

Terms of Reference:

(1) To undertake reviews of public and private sector housing policies on behalf of the Overview and Scrutiny Committee, Housing Portfolio Holder or Head of Housing Services and to make any recommendations arising from such reviews to the Housing Portfolio Holder or Cabinet as appropriate.

(2) To undertake specific projects related to public and private sector housing issues, as directed by the Overview and Scrutiny Committee, and to make any recommendations arising from such reviews to the Housing Portfolio Holder or Cabinet as appropriate.

(3) To consider and provide comments to the Housing Portfolio Holder on the following matters, prior to consideration by the Cabinet:

- (i) Draft Housing Strategy (to be adopted by full Council in accordance with the Council's Constitution)
- (ii) Draft Private Sector Housing Strategy
- (iii) Draft Private Sector Housing Grants Policy
- (iv) Annual Review of the Housing Allocations Scheme

(4) To consider and provide comments to the Housing Portfolio Holder on draft versions of the following documents:

- (i) Housing Revenue Account (HRA) Business Plan
- (ii) Local Supporting People Strategy
- (iii) Housing Service Strategies

(5) To undertake the Annual Ethnic Monitoring Review of Housing Applicants and Housing Allocations, in accordance with the Code of Practice in Rented Housing.

(6) To monitor progress with the actions plans contained in the following documents, on a six-monthly basis:

- (i) Housing Strategy
- (ii) Local Supporting People Strategy
- (iii) Private Sector Housing Strategy
- (iv) Housing Services Development Plan

(7) To consider the Housing Portfolio Holder's draft response to any consultation papers relating to public or private sector housing that the Housing Portfolio Holder considers warrants a response from the Council.

(8) In relation to Traveller issues to consider and monitor:

- (a) the position regarding tolerated sites and;
- (b) the management of travellers who enter onto land within the district with a view to unauthorised encampments, with particular reference to the legal remedies available, interactions with other agencies such as Essex Police and Essex County

Council and the provision of emergency and/or transit sites within the district;

(c) Government's guidance on the needs of travellers in the context of the Council's review of its District Local Plan and the Essex Housing Needs Assessment;

(d) the results of the Commission for Racial Equality's study on traveller issues in which this Council participated, once published;

(9) To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.

Chairman: Cllr Stephen Murray

Report to Overview & Scrutiny Committee

Date of meeting: 29 November 2011

Portfolio: Housing

Subject: Call in – Fire Safety in Flat Blocks



Officer contact for further information: Adrian Hendry / Paul Pledger

Committee Secretary: Adrian Hendry – Ext 4246

Recommendations/Decisions Required:

To consider the call-in of Cabinet decision C-067-2011/12 regarding Fire Safety in blocks of flats.

Report:

1. In accordance with rule 20 of the Overview and Scrutiny Rules, 5 members have called in the Cabinet's decision, taken on 12 March 2012 and published on 20 March 2012. This decision relates to the Cabinet's decision confirming the Policy on Fire Safety in Flat Blocks, agreed by the former Housing Portfolio Holder in January 2010.
2. The Chairman of the Overview and Scrutiny Committee determined that consideration of the call-in should be referred to this meeting of the Overview and Scrutiny Committee.
3. Attached to this report are:
 - (a) Copies of all documentation submitted to the Cabinet on which the decision was based;
 - (b) A copy of the notification of the call in including the names of the relevant Councillors who requested the call in and their grounds for so doing; and
 - (c) A copy of an extract of the Council's procedures for dealing with call-ins.

Consideration of the Call – in

4. In accordance with the Council's Protocol (attached) the consideration of call-ins by the Committee should be considered in the following manner:
 - (a) the representative of the Councillors calling in the decision shall describe their concerns;
 - (b) the Portfolio Holder shall then respond;

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately; or
 - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns; or
 - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's / Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

5. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) in attached, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.

6. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

7. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

8. The Committee are asked to consider the decision taken by the Cabinet and report accordingly.

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EPPING FOREST DISTRICT COUNCIL

**Notification Of Call – In Of Cabinet Or Portfolio Holder Decision Under Rule 20
(8) (Page J13 of the Constitution) Of The Overview And Scrutiny Rules**

*This form must be signed and completed and the original returned to the
proper officer in person no later than 10.00 a.m. on the 5th working day
following publication of the decision*

Decision to be called-in: Fire Safety in Flat Blocks
Decision reference: C- 067 – 2011/12
Portfolio: HOUSING
<p>Description of Decision:</p> <p>As per Cabinet decision on Fire Safety in Flat Blocks on 12.03.12</p>
<p>Reason for Call – in</p> <p>The fundamental decision of the Cabinet regarding fire safety in flat blocks is not being opposed, but: No distinction was made between 2 storey flat blocks and flat blocks of 3 or more storeys; and The proposed conditions in paragraph 2 and 3 are too onerous to comply with.</p> <p>In relation to paragraph 2 and 3 of the decision:</p> <ol style="list-style-type: none"> 1) that the 4 month permitted period be extended to 2 years, due to the time it will take for mains alarms, approved fire doors and other agreed measures to be in place. 2) That the Council should remove, free of charge, any non-complying carpets. 3) That residents of 2 storey flat blocks can, in future, install carpet conforming to BS5287 once all conditions are met.

**Members requesting call – in (3 members of the Overview and Scrutiny
Committee or 5 other members)**

Members Name:	Signed:
Lead member:	
Jennie Hart	
Ken Angold-Stephens	
Tessa Cochrane	
Caroline Pond	
Lance Leonard	
Office Use Only: Date Received: 21 March 2012	

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Report to the Cabinet

Report reference: C-067-2011/12
Date of meeting: 12 March 2012



Portfolio: Housing
Subject: Fire Safety in Common Parts of Flat Blocks
Responsible Officer: Paul Pledger (01992 564281)
Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

1. That the Cabinet confirms the Policy on Fire Safety in Flat Blocks, agreed by the former Housing Portfolio Holder in January 2010, namely:

(1) That the Council continues to enforce the removal of personal belongings and any other items stored in common parts of flats, with the exception of the following concessions as put forward by the Workplace Fire Safety Officer of the Essex Fire and Rescue Service:

(a) Pictures hung on the wall, provided that they do not contain glass in the frame;

(b) Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around;

(c) Curtains at windows that are flame retardant; and

(d) Non-flammable items which are aesthetically pleasing (e.g. plant pots) stored in recesses away from any means of escape routes, and not on window cills;

(2) That carpets in common parts of the flat blocks not be allowed and that within a 2-month period of the date of this decision, the Council enforces the removal of carpets where residents have either loose laid or fitted them;

(3) That further consideration be given to undertaking an enhancement programme of installing mains-powered smoke detectors in all Council-owned properties, when the Housing Scrutiny Panel considers the proposed list of housing improvements and service enhancements, funded from the additional resources made available under HRA Self-Financing;

(4) That smoke alarms are not installed in common parts of flat blocks in line with the recommendations within the Local Government Group Guidance document "Fire safety in purpose built flat blocks"; and

(5) That the Director of Housing explores further a joint working approach to fire safety risk assessments in flat blocks with Harlow District Council.

Executive Summary:

Since the introduction of the Regulatory Reform (Fire Safety) Order 2005, the Council has had a responsibility to undertake fire risk assessments at all blocks of flats. Through the advice, previously provided informally, from the Essex Fire & Rescue Service the Council adopted a policy that prevented residents from storing their belongings in the common parts as these formed the means of escape in the event of a fire. This included carpets, as they could contribute towards a fire.

Following complaints from a small number of residents, the Housing Scrutiny Panel considered the Policy, who supported a change to allow a slightly more “managed” approach to fire safety in flat blocks. Recommendation 1 of this report records the outcome of the Housing Scrutiny Panel views, which were subsequently approved by the former Housing Portfolio Holder. However, following continuing complaints by a small number of residents, the Former Portfolio Holder decided to review the decision not to allow carpets in the common parts of flat blocks.

Further advice was sought from the Housing Minister and the Fire Officer, and a feasibility study was undertaken into reducing the risk of fire in Council properties. The outcome of this was again considered by the Housing Scrutiny Panel at its meeting in January 2012, who supported the recommendations set out above. Since then, a further letter has been received from the Chief Fire Officer at Essex County Fire & Rescue Service and is referred to in this report.

Reasons for Proposed Decision:

In order to comply with the Regulatory Reform (Fire Safety) Order 2005, the Council must set a clear Policy and subsequently enforce that Policy by undertaking Fire Risk Assessments, and then following up any actions that arise as a result. The current Policy is partly “at large” pending a review of carpets installed in the common parts, and therefore requires a decision on the terms of the Policy.

Other Options for Action:

- To allow existing carpets in flat blocks to remain only where the carpet is fitted professionally and in a good condition, and where there is a door entry security system and all individual flats have a smoke detector, until such time as the carpet deteriorates causing a trip hazard, at which point it must be removed and not replaced. However, this will require additional annual risk inspections to determine the condition of the carpet. In addition, there would still remain a risk to health should a fire occur.
- To undertake a full programme of installing smoke detection equipment in the common parts of flat blocks before then actively allowing carpets to be installed. However, there still remains a risk to health should a fire occur.

Report:

1. In January 2010, following consultation with the Housing Scrutiny Panel, the then Housing Portfolio Holder agreed a policy on fire safety in flat blocks. The policy stated:

(a) That personal belongings, fitted or loose lay carpets, mats and any other items stored in common parts of flats be prohibited and removed, with the exception of the following concessions agreed with the Workplace Fire Safety Officer of the Essex Fire and Rescue

Service:

- (i) Pictures hung on the wall, provided that they do not contain glass in the frame.
 - (ii) Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around.
 - (iii) Curtains at windows that are flame retardant.
 - (iv) Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles and motorbikes.); and
- (b) That letters be sent to all tenants and leaseholders in the blocks advising them of these concessions.
2. Following the introduction of that Policy, a small number of residents requested that a further review be undertaken as they felt the policy was too risk averse and prevented them from making their flat blocks feel more homely by allowing carpets in common areas.
3. In January 2011, the then Housing Portfolio Holder decided to temporarily suspend the policy relating only to carpets in the common parts until such time as a further feasibility study was carried out.
4. That decision to suspend the policy was a temporary measure, until such time as a number of additional factors could be taken into account. The following were included in the decision to suspend the policy:
- (a) That a feasibility study be carried out into the cost and practicalities of installing mains operated smoke detectors in:
 - Flats and Maisonettes; and/or
 - Houses and bungalows; and/or
 - Common parts to flats
 - (b) That a letter be sent to the Housing Minister seeking clarification on the extent to which landlords must go when undertaking fire risk assessments;
 - (c) That the Portfolio Holder for Legal and Estates be asked to review the Council's legal responsibility in respect of undertaking Fire Risk Assessments and in particular the risks associated with fitted carpets on means of escapes in common parts to flat blocks;
 - (d) That until the outcome of the issues above are known, the current Policy on fire safety in common parts of flat blocks agreed in January 2010 relating to residents not being allowed to retain fitted or loose lay carpets be suspended until further notice; and
 - (e) That personal belongings and any other items stored in common parts of flats continue to be prohibited and removed, with the exception of the following:
 - Pictures hung on the wall, provided that they do not contain glass in the frame.
 - Curtains at windows that are flame retardant
 - Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles and motorbikes.)

5. The former Housing Portfolio Holder sent a letter to the Housing Minister in March 2011 expressing the concerns of Members about the lack of clarity and guidance available to local authorities when assessing fire safety in flat blocks following the Regulatory Reform (Fire Safety) Order. A response was received from the Parliamentary Under Secretary of State in July 2011, a copy of which can be found at Appendix 1.

6. The response from the Parliamentary Under Secretary of State made reference to the Local Government Improvement and Development (LIGD) part of the Local Government Group being given grant funding to develop and own practical and proportionate fire safety guidance specifically for residential buildings. That guidance was formally issued shortly after the letter was received, and is made up of 192 pages and therefore forms a background document to this report. Whilst the guidance does not make specific reference to carpets, it is a much clearer document, with statistics that support the guidance to help local authorities inform their risk assessments.

Fire Safety Guidance

7. The fire safety guidance specifically issued by the Local Government Group advises that very few deaths occur as a result of a fire in a neighbour's flat or a fire in the common part, mainly due to the fire separation between the flats. This assumes that the protected common parts are themselves free of all sources of ignition and material that could contribute to the spread of flames. The report goes on to state that nearly all deaths occur in the flat in which the fire starts. This means that more emphasis should be put on smoke detection in the flats rather than the common parts.

8. Further more, the guidance strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

9. The report also states that whilst the most likely place for a fire to start is in the flat, the most dangerous fires are those within the common parts, as the common parts are the means by which residents must escape. The guidance suggests that poor housekeeping in the common parts is a significant fire hazard, and adds that there should be a clear policy on whether common parts must remain completely sterile ('zero tolerance') or may be subject to 'managed use'.

10. A zero tolerance policy is one in which residents are not permitted to use the common parts to store or dispose of their belongings or rubbish with no exceptions. This would maintain an environment that is free of obstructions, ignition sources and trip hazards. This is the easiest policy to adopt and easier to police when carrying out inspections; residents know exactly what is expected of them and the risks are low.

11. A managed use policy on the other hand allows residents some scope to make the common parts more homely. However, a managed use policy must be very specific in terms of what is allowed and what is not. It must leave no scope for ambiguity. The guidance suggests that any managed use policy should generally apply only to buildings with added security, such as blocks with a door entry system.

12. The policy adopted by the former Housing Portfolio Holder in January 2010 would be categorized as a 'managed use' policy as defined by the guidance, whereby residents were given clear guidance on what could and could not be placed in the common parts.

13. Additional guidance has also been sought from Due Diligence, who are a specialist company employed by the Council to undertake fire risk assessments to high risk category

blocks, including the sheltered housing schemes as well as the Council's Homeless Hostel. Their advice states that if the Council was to relax the policy to allow carpets in the common parts, then there are several implications that would need to be taken into account. From their observations and experience, the carpets that are generally fitted to common parts are 'off cuts', and that they are not fitted professionally. This gives rise to the following issues:

(a) DIY laid carpets can and do become loose and wrinkled, causing slip and trip hazards. If another tenant was to trip or injure themselves, then who would be liable, the person that fitted the carpet, the Council or a combination of them both?

(b) If the tenant that fitted the carpet was to move away, who would be responsible for removing and replacing the carpet when it becomes worn or dangerous?

(c) Carpets and rugs increase the potential for spread of flame, and production of smoke and toxic fumes.

(d) Allowing carpets and rugs may increase the risk level from "low" to "medium", which may require automatic fire detection equipment (ie smoke detectors) as a compensatory measure.

14. Their advice goes on to say that if the Council was to allow carpets to be fitted, then there should be a clear policy, regular monitoring and the introduction of an application and approval process, which would need to stipulate that these are to be professionally fitted using non flammable adhesives and then inspected on a regular basis for wear and tear. This is broadly the same advice as set out in the Local Government Forum guidance.

15. At the meeting of the Housing Scrutiny Panel in October 2011, the Environment Portfolio Holder made reference to a letter he had received from the Essex Fire and Rescue Service, which suggested that it was acceptable to allow carpets to be installed in common parts, subject to a satisfactory risk assessment (see appendix 2). In light of this, the Housing Scrutiny Panel asked that the report be deferred until such time as the contents of that letter could be reviewed.

16. Upon receipt, a further letter was sent to the Essex Fire and Rescue Service seeking clarification on a number of points, particularly seeking guidance on examples of where it may be acceptable for carpets to be installed in common parts. The response from the Essex Fire and Rescue Service, which is attached at Appendix 3, advises that generally, carpets in common parts should be avoided.

17. A similar version of this report was considered in detail by the Housing Scrutiny Panel on 31 January 2012. The Panel decided to support the recommendations set out at the commencement of this report in full.

18. As part of the investigations into what other local authorities are doing with regard to carpets in flat blocks, Officers have found that virtually all Local Authorities and housing associations are adopting the 'zero tolerance' approach, whereby the common parts are to remain as sterile environments. However, one neighbouring authority Harlow District Council has adopted a slightly different approach whereby those blocks that already have carpets fitted, so long as:

(a) they are in good condition, fitted professionally and do not present a trip hazard;

(b) the flats have smoke detectors; and

(c) the main entrance has a door entry security system;

then the carpet may remain until the carpet is no longer in a good condition. That Authority is not currently allowing any further requests for carpets to be installed irrespective of the other measures being in place.

19. Adopting a similar approach is an option for the Council, since many of the Council owned flat blocks have door entry security already installed. However, it will be necessary to agree who is responsible for the reinstatement of the common parts once the carpets are no longer fit for purpose and present a hazard. It should be made absolutely clear that adopting a similar approach would result in a higher risk to life should a fire occur in a block where a carpet installed.

Issues around Advice from the Chief Fire Officer

20. Following the meeting of the Housing Scrutiny Panel in January 2012, the Council received a further letter addressed to the Environment Portfolio Holder from the Chief Fire Officer, Chief Executive & Head of Civil Protection and Emergency Management at Essex County Fire & Rescue Service. That letter, which includes advice on where it may be considered acceptable to allow carpets in common parts, is included at appendix 4.

21. There are seven aspects referred to in the letter received from the Chief Fire Officer that are to be considered by the "Responsible Person" when undertaking the premises risk assessment. However, taking account of this advice, it is still not possible to allow carpets to be fitted in the common parts of flat blocks for the following reasons:

(a) All individual flats to have a mains smoke detector installed – This is considered later in this report. However, it should be noted here that the Council is not able to enforce the installation of smoke detectors in Leasehold premises since this is not a requirement in the lease agreement. Whilst the Council is looking to install mains operated smoke detectors in all Council owned properties, it will take some 4-5 years before all Council owned properties have had them installed.

(b) All doors onto the means of escape should be 30 mins fire protected and should be fitted with a self closing device – Whilst the Council is responsible for individual flat entrance doors, the door furniture is the responsibility of the tenant, who may from time to time install their own letter box or in some cases cat flaps. These could compromise the effectiveness of the fire door. Entrance doors to leasehold properties are the responsibility of the Leaseholder and not the Council. Also, whilst Council flat entrance doors are 30 mins fire protected, none of the doors have self closing devices (with the exception of those in Sheltered Accommodation).

(c) No storage of personal belongings in the common parts – This is referred to in the recommendations above

(d) A high standard of general housekeeping by tenants – The Council is only able to purvey this expectation, it is unable to enforce it. An example is where the Council has installed "No Smoking" signs in the common parts to all flat blocks. However, despite this expectation, Officers often find cigarette ends and discarded lighters on window ledges.

(e) The provision of a controlled door entry security system – a large proportion of flat blocks have the benefit of a controlled door entry security system, but not all. The ones that remain to have a controlled door entry security system installed are the ones where there are more than 25% leaseholders and therefore, the Council has to consult with Leaseholders before installing such a system, and then requires them to pay their proportion of the costs. Without the consent of all Leaseholders in the block, the Council cannot install a system.

(f) The carpets conform to BS 5287, are professionally fitted and maintained to a good standard – Since carpets are not labelled, it will be impossible to determine compliance with this British Standard.

(g) An effective building inspection and management system – This is considered as part of the “shared services” section below in partnership with Harlow District Council.

22. It is therefore recommended that carpets in common parts of the flat blocks should not be allowed to remain (or fitted at a later date) and that the Council enforces the removal of carpets where residents have either loose laid or fitted them.

Smoke Alarms

23. In line with the decision of the previous Housing Portfolio Holder in January 2011, a feasibility study has been carried out into the cost of providing mains wired smoke detectors in individual flats, maisonettes and common parts to flat blocks. This decision would sit favourably with the guidance from the Local Government Forum and Due Diligence if it was not to include alarms in the common parts. However, the feasibility study was undertaken prior to that guidance and also prior to the changes in the new Wiring Regulations that came into force in January 2012, which specifies the installation of mains powered smoke detectors in properties where minor upgrades or rewires are found to be necessary. As a result, there is already a programme to install mains powered smoke detectors as part of the ongoing electrical upgrade and rewire contracts.

24. Installing mains operated smoke detectors is clearly an improvement that would save many lives and therefore should be considered as part of any future improvements. It is therefore recommended that the Council continues with the current programme of installing smoke detectors in all properties. However, it is proposed that the cost and programme implications of enhancing the current programme be considered by the Housing Scrutiny Panel as part of the proposed list of Housing Improvements and Service Enhancements in March 2012. This matter was considered by the Housing Scrutiny Panel on 31 January 2012, which supported this proposal.

25. As stated earlier in this report, the fire safety guidance issued by the Local Government Group strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

Shared Services

26. Whilst not specific to the issue of carpets in flat blocks, it is worth mentioning that whilst researching the policies adopted with other local authorities, it has become clear that there may be an opportunity to work in conjunction with Harlow District Council whereby the role of undertaking Fire Risk Assessments could be undertaken collectively, therefore potentially saving resources as a result. In this case, the neighboring Authority undertaking the fire risk assessments and the Council saving on the cost of employing Consultants and overtime for existing staff to carry out them ourselves. A preliminary meeting has taken place, and subject to the existing staffing resources being able to cope with the additional number of fire risk assessments, and the cost of them to the Council being less than the current arrangement, then this may be an opportunity that the Council may wish to pursue.

Resource Implications:

The cost of installing the mains powered smoke detectors in all Council owned dwellings to

be considered as part of the Service Enhancements associated with HRA Self Financing.

Legal and Governance Implications:

- Housing and Regeneration Act 2008
- Housing Act 1985
- Regulatory Reform (Fire Safety) Order 2005

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

- Housing Minister, with a response from the Parliamentary Under Secretary of State.
- Due Diligence, a specialist Consultancy employed by the Council to undertake fire risk assessments.
- Consultation with neighboring Local Authorities, other Local Authorities and Registered Social Landlords. The Housing Scrutiny Panel have also considered and support this report.
- Consultation with the Leaseholders Federation, who made the following observations:
 - a. Leaseholders felt that there should be a zero tolerance policy on personal items in common parts;
 - b. Leaseholders would have concerns about the Council fitting smoke detectors in their homes and charging them for this; and,
 - c. Leaseholders reminded the Council of their obligations under Section 20 to consult them if the cost was to exceed £250 per property.

Background Papers:

- a. Housing Portfolio Holder decision dated January 2010, setting the Policy on Fire Safety in flat blocks.
- b. Housing Portfolio Holder decision dated January 2011, suspending the decision not to allow carpets to be installed in flat blocks.
- c. Guidance document produced by the Local Government Group entitled "Fire safety in purpose-built blocks of flats"
- d. Report from Due Diligence who are a specialist company employed by the Council to undertake fire risk assessments to high risk category blocks, giving advice on the installation of carpets in flat blocks

Impact Assessments:

Risk Management

If the Council was to allow carpets currently fitted in flat blocks to remain and there was a fire, which resulted in toxic fumes or other hazard causing a fatality, then the Council may be responsible. Whilst the severity cannot be downgraded, the likelihood could be reduced. However, this would mean increased numbers of inspections to assess the risk, which would add to the staff workload. Even then, the risk is higher than if carpets were not permitted.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?

No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

This report sets out policies on fire safety matters that will apply to all Council owned flat blocks irrespective of tenure or occupancy. The views of residents have been taken into account. However, these have been weighed up against the Council's Duty of Care towards the residents when putting forward the recommendations set out in the report.



Councillor David Stallan
 Housing Portfolio Holder
 Epping Forest District Council
 Civic Offices
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Bob Neill MP
 Parliamentary Under Secretary of State

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Our Ref: GS/BN/022225/11

David Stallan

08 JUL 2011

FIRE SAFETY IN FLAT BLOCKS

Thank you for your letter of 7 April to the Rt Hon Grant Shapps MP, about fire safety in purpose built blocks of flats. I am replying as I have responsibility for fire safety policy.

I recognise concerns about the provision of fire safety in blocks of flats. The tragic fire in Lakanal House, Camberwell, gave rise to concerns among housing providers – local authorities, housing associations and the private sector – and the enforcing authorities about the adequacy of risk assessments and fire safety measures necessary to ensure sufficient protection to residents and deliver compliance under both the Regulatory Reform (Fire Safety) Order 2005 (the FSO) and the Housing Act 2004.

Both the housing and fire sectors considered that additional fire safety guidance should be developed to focus on the particular circumstances and challenges presented by purpose built blocks of flats. We listened carefully to the concerns of the sector on this, and have provided Local Government Improvement and Development (LGID) – part of the Local Government Group – with grant funding to develop and own, on behalf of the sector, practical and proportionate fire safety guidance specifically for these types of residential buildings. The guidance is expected to clarify a number of issues around managing fire safety and ensuring residents in purpose built flats get appropriate advice on what to do in the event of a fire. LGID has consulted widely on the draft guidance, and plan to make the final guidance available on its website, and for dissemination by sector partners, by the end of July.

Finally, you ask about the role of the Fire and Rescue Authorities (FRAs). As the enforcing authorities, FRAs are, of course, unable to carry out the risk assessment for those with responsibilities under the FSO. However, they are expected to support compliance through the provision of advice and information as appropriate.

Bob Neill

 A black rectangular redaction box covering the signature area of Bob Neill.

BOB NEILL MP

Essex County Fire & Rescue Service

Chief Fire Officer: David Johnson LL.b(Hons), BSc, MA, MSc, FCMI



Our ref: PB/CD
Your ref:
Enquiries to: Camilla Disley
Email: camilla.disley@essex-fire.gov.uk

18 June 2010

Councillor Knapman
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www.essex-fire.gov.uk

Dear Councillor Knapman

Surface Spread of Flame within Common Areas

Further to our conversation regarding surface spread of flame in common areas at the recent Fire Authority meeting, I can confirm the following definitions, which are referred to within various guides, including the Building Regulations and Approved Document B.

In essence, the choice of materials for walls and ceilings can significantly affect the spread of fire and its rate of growth, even though they are not likely to be the first materials ignited. The flame spread over wall and ceiling surfaces is controlled by providing for the lining materials to meet given performance levels in tests appropriate to the materials or products involved.

The national test for establish the surface spread of flame is British Standard 476. This tests all materials, and gives a grading of between 1 and 4, with 1 as the least flammable. The Building Regulations describe a Class 0 material, which is a totally non flammable material (i.e. gypsum plaster or a brick). Whilst accepted within the guides, these are not covered by the British Standard.

The above provisions do not apply to the upper surfaces of floors and stairs because they are not significantly involved in a fire until it is well developed, and thus do not play an important part in fire spread in the early stages of a fire that are most relevant to the safety of occupants, and therefore any floor covering that may be in place.

However, should the fire risk assessment for the premises show that the floor covering presents an excessive risk of exacerbating the spread of fire, it would be deemed as not complying with the Regulatory Reform (Fire Safety Order) 2005, and the Fire Authority may take action to address this element.

I hope this is of some help; however should you require any further information, please do not hesitate to contact me at the above address.

Yours sincerely

Paul Bowers

Senior Divisional Officer

Prevention, Protection & Community Risk Management

Essex County Fire & Rescue Service

Mr David Johnson LL.B(Hons), BSc, MA, MSc, FCMI
Chief Fire Officer & Chief Executive



Mr Paul Pledger
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Date: Wednesday, 21 December 2011
Our Ref: C00098
Your Ref: FRA/PP
Enquiries to: jon.payne@essex-fire.gov.uk



Dear Mr Pledger

Carpets in Common Parts to Flat Blocks

I am writing in response to your letter to SDO Paul Bowers of 15th November 2011, regarding the matter of carpets in common parts to blocks of flats.

I would take this opportunity to reinforce the informal advice that has been previously provided by Essex County Fire & Rescue Service Officers, that carpets in common parts should be avoided. The decision to remove existing carpets from common parts will be influenced by the findings of a site specific risk assessment and should take account of a number of factors, many of which are detailed in the report presented to the Housing Scrutiny Panel in October 2011. Therefore, and as this is a matter for the Responsible Person as designated under the Regulatory Reform (Fire Safety) Order 2005, I am unable to provide more specific advice on your enquiry.

Yours sincerely



DO Jón Payne
Fire Safety Officer

cc

ECFRS/175719/V1

DOING MORE THAN WE HAVE EVER DONE TO MAKE ESSEX SAFE

Date: 2nd February, 2012
 Our Ref: D.V.J.P /lb /DM#180591
 Your Ref:
 Enquiries to: Linda Boar
 E-mail: linda.boar@essex-fire.gov.uk
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Essex County Fire & Rescue Service

Chief Fire Officer: David Johnson LL.B(Hons), BSc, MA, MSc, FCMJ



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Dear Cllr Knapman

Carpets in Common Parts to Flat Blocks

Further to our telephone conversation of 1st February 2012, I am writing to confirm the position of ECFRS regarding the matter of carpets in common parts to flat blocks.

As discussed, the decision to allow carpets in common parts of flat blocks should be based on the findings of a site specific risk assessment, and rests with the Responsible Person as designated under the Regulatory Reform (Fire Safety) Order 2005.

However, as a general principle, carpets in common parts would be considered acceptable subject to the following conditions:

- All individual flats are fitted with mains operated smoke detectors.
- All doors giving onto the common part, including individual flat doors, are maintained to provide a minimum of 30 minutes fire resistance in accordance with BS 476, and are fitted with a suitable self-closing device.
- No storage of personal belongings or other combustible items is permitted within the common parts.
- A high standard of general housekeeping by tenants.
- The provision and maintenance of an effective main entrance door entry security system.
- The carpets conform to BS 5287, are professionally fitted, and maintained in a good condition.
- An effective building inspection and management system.

All of the above is offered as general advice, which the Responsible Person may take account of when undertaking the premises risk assessment.

Yours sincerely,

David Johnson
 Chief Fire Officer, Chief Executive &
 Head of Civil Protection and Emergency Management

**EXTRACT FROM CABINET DECISION SHEET FOR CABINET
MEETING HELD ON 12 MARCH 2012 - PUBLISHED ON 20
MARCH 2012**

Fire Safety in Flat Blocks (C-067-2011-12)

(1) That the removal of personal belongings and any other items stored in common parts of flats be enforced, with the exception of the following concessions as put forward by the Workplace Fire Safety Officer of the Essex Fire and Rescue Service:

- (a) Pictures hung on the wall, provided that they did not contain glass in the frame;
- (b) Mats placed outside front doors, provided that these were rubber backed (non-slip) and had a chamfered edge all around;
- (c) Curtains at windows, provided that they were flame retardant; and
- (d) Non-flammable items which were aesthetically pleasing (e.g. plant pots), provided that they were stored in recesses away from any means of escape routes, and not on window sills.

(2) That carpets in common parts of flat blocks not be allowed and that, after a four-month period of the date of this decision, the removal of carpets where residents had previously loose laid or fitted them and had not removed them voluntarily be enforced by the Council, unless the following conditions were met within the four-month period as advised by the Chief Fire Officer of the Essex County Fire & Rescue Service in his letter to the Council dated 2 February 2012:

- (a) confirmation that all individual flats affected would be fitted with mains operated smoke detectors by the occupiers or the Council within one year of this decision;
- (b) all doors leading onto common areas, including individual flat doors, provide a minimum of 30 minutes fire resistance in accordance with BS 476 and be fitted with a suitable self-closing device by the tenant or leaseholder concerned at their cost;
- (c) no personal belongings or other combustible items be stored by tenants, leaseholders or visitors within the common areas at any time;
- (d) a high standard of general housekeeping be maintained by all tenants and leaseholders at all times;
- (e) an effective main entrance door and security entry system be provided and maintained;
- (f) the carpets:
 - (i) conform to BS 5287;
 - (ii) be professionally fitted in the first instance, with evidence provided to the Council of such professional fitting; and

(iii) be maintained in a good condition at all times; and

(g) an effective building inspection and management system be maintained by the Council.

(3) That carpets only be allowed to remain in accordance with (2) above, if all tenants and leaseholders in a block had confirmed to the Council in writing within the four-month period referred to above their agreement to:

(a) wanting the existing carpets to remain;

(b) not holding the Council responsible or liable in the future for any accidents, fires or incidents occurring as a result of the carpets remaining;

(c) ensuring that the conditions in (2) above would be maintained by them at all times; and

(d) in the case of leaseholders, entering into a Deed of Variation with the Council, at the leaseholder's cost, to vary their lease to commit and bind subsequent leaseholders of their properties the conditions referred to in (2) above when the lease is assigned in the future.

(4) That further consideration be given to undertaking an enhancement programme of installing mains-powered smoke detectors in all Council-owned properties, as part of the Housing Scrutiny Panel's deliberation of the proposed list of housing improvements and service enhancements, funded from the additional resources made available under HRA Self-Financing.

(5) That smoke alarms not be installed in common parts of flat blocks in line with the recommendations within the Local Government Group Guidance document "Fire safety in purpose built flat blocks".

(6) That a joint working approach to fire safety risk assessments in flat blocks with Harlow District Council be further explored by the Director of Housing and reported back to a future meeting of the Cabinet.

**PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS
CALLED IN BY OVERVIEW AND SCRUTINY****1. Purpose of Protocol**

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

2. Validation of "Call In"

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

3. Consideration of "Call In" Items by Overview and Scrutiny Committee

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
 - (a) copies of all documentation submitted to the Executive on which the decision was based;
 - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
 - (c) any other relevant documentation.
- 3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.
- 3.4 The "call in" decision shall be considered in the following manner:
 - (a) the representative of the Councillors calling in the decision shall describe their concerns;
 - (b) the Portfolio Holder shall then respond

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
 - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

4. Consideration of Reports on "Call In" Items by the Executive

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
- (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
 - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
 - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
- (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
 - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;
 - (c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and
 - (d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.
- 4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

5. Implementation of Decisions When Cabinet Control or Membership Changes

- 5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council

- 6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.
- 6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:
- (a) whether the Council may properly determine the matter if the function is delegated to the Executive;
 - (b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;
 - (c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and
 - (d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

7. Restriction on "Call In"

- 7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".
- 7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

8. Definitions

8.1 For the purpose of this Protocol, the following definitions shall apply:

(a) "Executive"

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

(b) "Decision"

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

(c) "Decision Taker"

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

9. Review of Protocol

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

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