

HOUSING APPEALS AND REVIEW PANEL – TERMS OF REFERENCE

- (1) The terms of reference of the Housing Appeals Panel shall be to hear appeals against and reviews of the decisions of the Head of Housing Services ("the Head of Service") acting under delegated authority, on housing matters.
- (2) The Panel shall comprise five Councillors, including a Chairman and Vice-Chairman, appointed at the Annual Council meeting. Each political group represented on the Panel shall be required to nominate the equivalent number of substitutes to cover for any member of the Panel who is unavailable.
- (3) A minimum of three members shall constitute a quorum for meetings of the Panel. Only members of the Panel present throughout the proceedings shall participate in the decision making process. Members arriving after the commencement of a Panel meeting will be required to leave immediately without taking part in the proceedings.
- (4) In the absence of both the Chairman and Vice-Chairman at any meeting of the Panel, a Chairman shall be appointed from the members of the Panel present (but not any substitute members) for that meeting only.
- (5) Notwithstanding the provisions of paragraph 3 it shall be competent for the Panel to hear and adjudicate on applications if less than three members are present, provided that both the applicant and the Officer or representative agree.
- (6) In relation to appeals or reviews at which the applicant's case is presented in person or by a representative, the hearing shall be conducted in the following order:
 - (a) Chairman's introductory remarks;
 - (b) Presentation of the case for the applicant;
 - (c) Questioning by Officer (or representative);
 - (d) Questioning by members of the Panel;
 - (e) Presentation of the Officer's case;
 - (f) Questioning by the applicant (or representative);
 - (g) Questioning by members of the Panel;
 - (h) Summing up by Officer;
 - (i) Summing up by the applicant;
 - (j) Panel considers its findings in the absence of the applicant and the Officer;
 - (k) The decision of the Panel will be conveyed to the applicant and Officer in writing.
 - (l) The Panel shall have discretion to reverse the order in which the cases of the applicant and the Council are presented, provided that both parties agree.
- (7) Meetings of the Panel shall be open only to those members appointed save that a Councillor or nominated person shall be permitted to attend in order to assist with the presentation of the applicant's case.
- (8) The Panel shall make recommendations to the Housing Portfolio Holder/Cabinet on any matters of policy arising from specific cases.

**HOUSING APPEALS PANEL
RECORD OF PREVIOUS DECISIONS
05-Mar-10**

Breakdown of Appeals by Type and Outcome			
Type of Appeal	Allowed	Dismissed	To be Held
Vehicular Crossovers	10	28	0
Successions	9	7	0
Admissions to Waiting Lists	1	8	0
Allocations of Council Garages	0	1	0
Improvement Grants	1	5	0
Disabled Adaptations / Welfare Heating	2	6	0
Allocation of Accommodation / Transfers / Priority Housing	5	21	0
Maintenance Issues	4	8	0
Permission for Hardstandings	1	0	0
Sales of Amenity Areas	2	3	0
Penalties for Refusing Reasonable Tenancy Offers	1	6	0
Write-off of Former Rent Arrears	1	1	0
Homelessness	24	61	0
Housing Management - General	2	4	0
Covenants & Leases - Former Council & Leasehold Properties	2	3	0
Other	2	2	0
Total	67	164	0
Withdrawn		18	

Outstanding Appeals:	No. of Appeals Heard/Scheduled	
	Year	No
	1991/2	6
	1992/3	5
	1993/4	11
	1994/5	4
	1995/6	4
	1996/7	10
	1997/8	13
	1998/9	19
	1999/00	15
	2000/1	15
	2001/2	16
	2002/3	25
	2003/4	17
	2004/5	27
	2005/6	18
	2006/7	9
	2007/8	16
	2008/9	11
	2009/10	8
	Total	249

**Appeals and Reviews Considered by the Housing Appeals and Review Panel
Over the Last Two-Year Period**

Type of Decision Appealed	No. of Appeals in Last 2 Years	Appeal Considered Under New Proposals?	
		Yes	No
The applicant was intentionally homeless.	6	Yes	
The Council's homelessness duty has been discharged, following intentional homelessness from temporary accommodation provided by the Council	4	Yes	
Refusal of a request for a disabled adaptation	2	Yes	
Refusal of a request to purchase a small amount of Council land	1	Yes	
A successor tenant must move to smaller accommodation, following the death of the previous tenant, due to under-occupation	1	Yes	
The applicant was not homeless (since he still held a housing association tenancy)	1	Yes	
Tenant was responsible for rent arrears of £83.72.	1	Yes	
Permission should not be given for a vehicular crossover,	5		No
The applicant should not be promoted to a higher Allocations Band.	3		No
Removal of a disabled adaptation following a reletting.	1		No
Refusal of permission for an extension to a leasehold flat.	1		No
Refusal of a tenant's request to transfer to her late father's home following his death (the tenant was not a successor tenant)	1		No
A charge was made for a repair that was the tenant's responsibility.	1		No
Refusal of a request for the Council to install sound proofing in a Council property	1		No
Totals	29	16 (55%)	13 (45%)

**Consultation of Members and Substitute Members of the Housing Appeals
and Review Panel on Proposed Changes to the Coverage of
Housing Appeals in the Future**

Name:

Cllr

Having read the draft report of the Director of Housing :

(Please delete/complete ONE of the following – Continue on another sheet if necessary):

1) I Fully support the proposals.

2) I generally support the proposals, EXCEPT the following:

3) I do NOT support the following, because :

Any other comments:

Signed:

Return to:

Alan Hall
Director of Housing
ahall@eppingforestdc.gov.uk

Date

BY FRIDAY 29TH JANUARY 2010

Responses from Housing Appeals and Review Panel (HARP) Members and Substitute Members on the DRAFT Report on the Future Scope of Appeals

<u>Fully Support the Proposals</u>		
Name	Councillor's Comment	Comments of the Director of Housing
Cllr Mrs Janet Whitehouse		None
Cllr John Wyatt		
<u>Generally Support the Proposals – Except....</u>		
Cllr Mrs Caroline Pond (Chairman)	<p>Except...</p> <p>(1) All succession cases should be eligible to come to the HARP</p> <p>(2) All priority banding cases should also come to the HARP</p>	<p>(1) Both the draft report and the final report have always recommended that housing succession cases (where the successor is under-occupying Council accommodation and has been required to transfer to smaller accommodation) should be considered by the HARP.</p> <p>(2) The draft report did not propose that appeals involving allocation bandings should be considered by the HARP. However, as a result of this comment received on consultation with HARP members, the final report now recommends that appeals on priority moves (i.e. those very urgent and rare cases, dealt with outside of the usual Allocations Scheme, where some judgement has to be exercised by officers) should be considered by the HARP.</p> <p>However, it is not recommended that any other appeals on allocation bandings are considered by the HARP, since eligibility for each of the bands (which is set by members) is very clearly set out within the Allocations Scheme and are matters of fact.</p>

		<p>The only other area where a judgement is made, is by the Council's Medical Advisor – to determine the level of priority that should be given for medical reasons. It is felt that HARP members will not be in a position to judge such information since, unlike the Medical Adviser, they will not be able to compare the relative merits with all other cases.</p>
Cllr Mrs Jill Sutcliffe	<p>Except...</p> <p>Where the tenant contests liability for rent arrears and there is the slightest doubt – e.g. if the Council did not alert them early enough, if the liability reaches £50 say, or if a Council employee may have given poor or wrong advice/information.</p> <p>As a rule of thumb, it should be possible for arrears to be paid off in 1 year comfortably, and the age of the appellant should be taken into account. If not, possibly the Panel needs to assess the case.</p>	<p>The draft report did not propose that appeals involving disagreement on the level or liability for current or former rent arrears should be considered by the HARP. However, as a result of this comment received on consultation with HARP members, the final report now recommends that such disputes on the level or liability for current or former rent arrears should be considered by the HARP.</p>
Cllr Mrs Ricki Gadsby	<p>Except...</p> <p>Write off of former tenant arrears.</p>	<p>The Council has a clear policy on how former tenant rent arrears can be written off. The Director of Housing has delegated authority to write-off former tenant arrears up to £2,500. Former tenant arrears above this amount can only be written-off by the Housing Portfolio Holder. A similar policy applies to the Director of Finance and ICT for the write-off of former Council Tax arrears. In most cases there is no dispute over whether or not the former tenant arrears are payable.</p> <p>However, as explained above in relation to Cllr Mrs Sutcliffe's comments, it is now proposed that appeals involving disagreement on the level or liability for either current <u>or former</u> rent arrears should be considered by the HARP.</p>

Other Comments

<p>Cllr Mrs Caroline Pond (Chairman)</p>	<p>When the Panel made comments about the scope of the HARP, it had in mind the arrears case when ten people were tied up for an afternoon discussing an amount owed of £83. The officers should have applied de minimis to a case such as this.</p>	<p>Under the current HARP arrangements, officers have no discretion on which cases the HARP should and should not consider – all appeals must be considered by the HARP (with the small exception of specific types of cases explained in the main report). One of the reasons for bringing forward this report on the scope of the HARP, is to avoid the HARP having to consider relatively minor matters.</p> <p>It should be noted that this comment appears to conflict with the comments of two members above in relation to disagreement over the level or liability for rent arrears.</p>
<p>Cllr Mrs Jill Sutcliffe</p>	<p>Should there be a caveat that if the officer who deals with appeals without the Panel has any doubts at all about a case, he/she should refer it to the Panel, regardless of what category it falls under ?</p> <p>This would provide a safeguard against genuine mistakes or maladministration, and give an opportunity to change the way something is done.</p>	<p>In a front line service such as Housing, officers deal with many individual and often difficult cases and have to exercise judgments on a daily basis, having regard to the Council's policies. Decisions are made at various levels, with the most difficult or contentious being taken by Asst Directors and the Director. If officers are unsure of a particular course of action in an individual case, or if they do not have delegated authority, the matter is referred to the Housing Portfolio Holder for a formal decision.</p> <p>If mistakes are made, or there has potentially been maladministration, such cases are not dealt with through the appeals procedure, but through the Council's Corporate Complaints Procedure.</p>
<p>Cllr John Wyatt</p>	<p>I'm still not happy about appellants failing to arrive at hearings. They should sign a statement that they will be attending at the specified time and that if they don't it will be heard in their absence. Genuine emergencies are very rare.</p>	<p>Following concerns previously raised by members of the HARP, the standard letter sent by the Assistant Director (Democratic Services) to appellants now states:</p> <p><i>" Please advise me by return if it is your intention to attend the meeting...Please note that if you are not in attendance at these offices at (the prescribed time and date) it is possible that the matter will be decided in your absence."</i></p> <p>It is felt that the Council's intention is therefore made very clear to appellants. If, in the event, the appellant does not attend, the HARP</p>

		<p>members consider whether or not the appeal should take place in the person's absence. The HARP usually takes into account whether or not the appellant has given apologies and a reason for their non-attendance, and whether he/she has previously failed to attend a hearing.</p> <p>It is not felt that any further changes to the procedure are required.</p>
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