

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 26 March 2013

Subject: Housing Appeals and Review Panel – Terms of Reference – Exclusion of Housing Applicants from the Housing Register

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Committee Secretary: Mark Jenkins (01992 56 4607)

Recommendations:

That, subject to the Cabinet (a) adopting a revised Housing Allocations Scheme, and (b) agreeing that the right of appeal to the Housing Appeals and Review Panel by housing applicants excluded from the Housing Register be revoked, the Council be recommended:

(a) to agree the removal of the following from the terms of reference of the Housing Appeals and Review Panel:

“(1)(c) – exclusion of housing applicants from the Housing Register”;
and

(b) to approve the amendment of the Constitution accordingly.

1. The Council on 20 April 2010, amended the terms of reference of the Housing Appeals and Review Panel (HARP). Prior to this date, any client of the Housing Directorate could appeal against (or request a review of) any decision made by an officer from the Housing Directorate on any housing matter.
2. Under the amended terms of reference, housing clients could only appeal on specific issues from the 2010/2011 municipal year. One of the issues that continues to be considered by the HARP is an appeal by a housing applicant against exclusion from the Housing Register.
3. The Council is currently reviewing its Housing Allocations Scheme and consulting on the proposed new Scheme. Under the new Government guidance “The Allocation of Accommodation: Guidance for Local Housing Authorities in England” (DCLG June 2012) authorities are given powers to decide locally how accommodation should be allocated based upon local priorities. Authorities are therefore empowered to allocate their accommodation in any way they see fit, provided schemes are both legal and rational.

4. The new draft Scheme was considered by the Housing Scrutiny Panel at its meeting on 17 December 2012. Under Section 14 of the proposed new Scheme, if an applicant does not meet the following Local Eligibility Criteria they will not qualify to either remain on or join the Housing Register:

Residency

An applicant who has lived in the Epping Forest District for less than three continuous years immediately prior to their date of registration. It should be noted that applicants who were registered on the Housing Register on the day before the new Scheme comes into force, and who had lived in the District for at least 2 years and 6 months continuously immediately before this date will be allowed to remain on the Register.

Exceptions to the Residency Criteria - Armed Forces Regulations

Any member or former member of the Armed Forces applying within five years of discharge, or a bereaved spouse or civil partner of a member of the Armed Forces leaving services' family accommodation following the death their spouse or civil partner.

Any spouse or child (including step-children) of existing or former Armed Forces Personnel; if one of their "qualifying" family members has lived in the District for more than three continuous years immediately prior to their date of registration.

Any serving or former member of the Reserve Forces who needs to move because of serious injury, medical condition or disability sustained as a result of their service where the application is made within 5 years of discharge.

Other Criteria

An applicant must have a housing need as defined by at least one Banding Criterion, must not have sufficient funds to enable them to meet their own housing costs under the limits set out under the Scheme, (amounts received as compensation for injury etc by members of the Armed Forces is discounted) and must not have been guilty of serious unacceptable behaviour as set out in the Scheme within the last three years.

5. The draft Housing Allocations Scheme will be considered by the Cabinet at its meeting on 15 April 2013. There are currently around 6,600 homeseekers on the Council's Housing Register. If the draft Housing Allocations Scheme is agreed by the Cabinet, it is estimated that around 3,000 homeseekers will no longer qualify for inclusion and therefore be removed from the Register.

6. In law, every applicant has the statutory right to request a review of certain decisions on allocations and to be informed of the decision on review and the grounds for it. This includes exclusions from the Housing Register.

7. If the Local Eligibility Criteria is agreed by the Cabinet, it is expected that both a high number of the estimated 3,000 homeseekers who will not qualify to remain on the Register, and non-qualifying new applicants in the future are likely to request their statutory right to a review. It is therefore anticipated that, unless the Terms of Reference of the HARP are changed, the HARP and officers will be unable to cope with the numbers of appeals which, apart from anything else, will be unfair on appellants. It is also felt that the proposed new Local Eligibility Criteria is very clear, with little or no officer judgement required and it is likely that the HARP will have little or no scope to change officer decisions and their influence would not justify the amount of time it would have to devote to this process.

8. The Housing Scrutiny Panel has therefore recommended to the Cabinet that the right of appeal to the Housing Appeals and Reviews Panel to applicants who have been excluded from the Housing Register be revoked, with all statutory reviews being dealt with by senior officers who have not been involved with the original decision (in the same way other reviews of decisions are dealt with), with effect from the Council meeting on 23 April 2013.

9. At a meeting on 13 February 2013 the Tenants and Leaseholders Federation supported the proposal.

10. If the Cabinet agree the recommendations of the Housing Scrutiny Panel, it will be necessary to revise the terms of reference of the HARP as set out above.