

Report to the Finance and Performance Management Cabinet Committee



Report reference: **FPM-020-2014/15**
Date of meeting: **19 January 2015**

**Epping Forest
District Council**

Portfolio: **Housing**

Subject: **Homelessness Legal Expenses Budget**

Responsible Officer: **Roger Wilson** **(01992 564419).**

Democratic Services: **Rebecca Perrin** **(01992 564532).**

Recommendations/Decisions Required:

(1) That the Committee recommends to the Cabinet that a report be made to Council requesting a Supplementary Estimate, funded from the District Development Fund (DDF) in the sum of £52,000, in order to meet the legal costs incurred in both 2013/2014 and 2014/2015 for seeking specialist legal advice on homelessness cases and defending a homelessness case in the County Court; and

(2) That, due to the increased legal challenges being made by homeless applicants against determinations under the Homelessness Legislation, in order to meet any potential legal costs in future years, a contingency provision of £20,000 per annum be made within the District Development Fund (DDF) for the three year period 2015/2016 to 2017/2018.

Executive Summary:

1. The Council's revised Housing Allocations Scheme came into force on 1 September 2013. Under the Scheme, changes were made to the way in which the Council deals with Homeless applicants. Due to the new approach to meeting the duty to homeless applicants, there has been an increase in the number of legal challenges. As a result, the Council's Legal Team appointed Counsel to advise on a number of specific legal matters and also to defend one case (unrelated to the revisions made to the Scheme) in the County Court in 2013/2014. In order to meet the additional expenditure, it is suggested that the Committee recommends to Cabinet that a report be made to Council requesting a Supplementary Estimate funded from the District Development Fund (DDF) in the sum of £52,000 in order to meet the legal costs incurred in the current year.

2. Furthermore, in order to make provision for any potential legal costs in future years, it is suggested that a contingency provision of £20,000 per annum be made within the District Development Fund (DDF) for the three year period 2015/2016 to 2017/2018.

Reasons for Proposed Decision:

In order to make budget provision for defending the Council's case in the County Court in 2013/2014, and the provision of legal advice in 2014/2015, and to provide additional funding to defend the Council's position when legal challenges are made by homeless applicants in future years.

Other Options for Action:

Not to defend legal challenges from homeless applicants, which would result in the Council conceding in all cases.

Report:

1. At its meeting on 15 April 2013 (Minute 139 refers), the Cabinet agreed the revised Housing Allocations Scheme which came into force on 1 September 2013. Under the revised Scheme, changes were made to the way in which the Council deals with homeless applicants. These included homeless applicants no longer being offered choice and instead being made one offer of suitable (generally flatted) accommodation which meets with the Council's duty to provide reasonable preference (in accordance with the Housing Act 1996 as amended) to this client group.

2. The reason for the change was to ensure that non-homeless home seekers on the Council's Housing Register have wider choice, and are given priority for houses along with existing tenants on the Register already living in Council flatted accommodation.

3. Due to the new approach to meeting the duty to homeless applicants, there has been an increase in the number of legal challenges predominantly concerning the suitability of the accommodation offered. As a result, the Council's Legal Team appointed Counsel to advise on a number of specific legal matters.

4. Furthermore, in 2013/2014, the Council unsuccessfully defended a challenge against a homelessness decision on vulnerability (unrelated to the revisions made to the Housing Allocations Scheme) in the County Court; the Claimant's costs were awarded against the Council in this financial year. Because of the unexpected increased costs, the budget for the current year is insufficient to meet the additional expenditure.

5. It is therefore suggested that the Committee recommends to the Cabinet that a report be made to Council requesting a Supplementary Estimate funded from the District Development Fund (DDF) in the sum of £52,000 in order to meet the legal costs incurred in 2013/2014 and 2014/2015.

6. Furthermore, due to the increased legal challenges being made by homeless applicants against determinations under the Homelessness Legislation, in order to make provision for any potential legal costs in subsequent years, it is suggested that a contingency provision of £20,000 per annum be made within the District Development Fund (DDF) for the three year period 2015/2016 to 2017/2018.

Resource Implications:

Supplementary Estimate funded from the District Development Fund (DDF) of £52,000 in order to meet the legal costs incurred in 2013/2014 and 2014/2015 for specialist legal advice and in defending a homelessness challenge in the County Court.

Contingency provision of £20,000 per annum within the District Development Fund (DDF) for the three year period 2015/2016 to 2017/2018.

Legal and Governance Implications:

Additional funding in order to enable the Council to defend its position when decisions are challenged by homeless applicants

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

None

Background Papers:

None

Risk Management:

If the Council failed to defend challenges from homelessness applicants, the implications of conceding in such cases would be that it would undermine the provisions of its Housing Allocations Scheme. Since the Scheme has been revised and homeless applicants are no longer given choice and generally offered only flatted accommodation, this has increased the risk of legal challenges and potentially higher legal costs.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

When dealing with homeless applicants, the Council carefully applies the requirements of the Housing Act 1996 as amended and the associated Code of Guidance. This ensures that there is no unlawful discrimination towards homeless applicants and ensures that this client group is granted access to housing in accordance with the legislation.