

Homelessness Decision Reviews

To:

Councillor Gerri Bird, Executive Councillor for Housing
Urgent decision

Report by:

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Wards affected:

All

Key Decision

1. Executive Summary

- 1.1 This report informs Members of the homelessness reviews process at Cambridge City Council and is requesting permission to outsource this function.
- 1.2 At Community Services Scrutiny Committee in March 2013, the Executive Councillor agreed, subject to Council accepting a recommendation to treat its functions relating to the review of homelessness applications as executive functions, to continue outsourcing the homelessness reviews process.
- 1.3 This outsourcing arrangement had been in place since 2004. However, a recommendation to approve the outsourcing did not go to Council at that time. As the review had been treated as a Council function (because reviews were carried out by members), the decision on its outsourcing should have been made by the Council.

2. Recommendations

The Executive Councillor is recommended to:

- 2.1 Authorise the outsourcing of the homelessness reviews process in accordance with the Council's procurement procedures and to note that renewals of this function, by contract, will also be subject to the Council's procurement procedures. This is until such time as the Council wishes to put in place alternative arrangements for undertaking homelessness reviews, for example by carrying them out in-house.
- 2.2 Retrospectively authorise the outsourcing of the homelessness reviews process from 31st May 2017, until the date of the authorised recommendation, set out in 2.1 above, if approved.

3. Background

- 3.1 The Council has a duty to accommodate certain categories of homeless persons as defined by the part VII of the Housing Act 1996 (as amended). If an applicant wishes to appeal against an adverse homelessness decision, there is a right to request a review of the decision as cited in s202 of the Act. Cambridge City Council has outsourced statutory reviews of homelessness decisions since 2004.
- 3.2 On 14th March 2013, a report to Community Services Scrutiny Committee requested, and received, from the Executive Councillor for Housing:
 - 1) Support for a recommendation laid out in a report to Civic Affairs Committee, that the Council treats its functions relating to the review of homelessness applications under the Housing Act 1996 as executive functionsand, as a result:
 - 2) Permission for the Council to continue to outsource the homelessness reviews function for up to 5 years
- 3.3 In July 2023, the Council received a legal challenge to a homelessness review decision. Under current contractual arrangements, reviews of the Council's homelessness decisions are carried out by a company

called Housing Reviews Limited. Their contract runs until 30th September 2024.

- 3.4 As part of this challenge, the appellant's barrister submitted a ground of appeal alleging that the review decision was unlawful because our Executive had not authorised the contracting out of the homelessness review function in accordance with our constitution. It's possible that this ground was raised on a speculative basis because we had not disclosed to the appellant a record of the outsourcing authority amongst our other disclosures.
- 3.5 In preparing for the defence of the appeal, our Counsel was provided with a copy of the Civic Affairs Committee report and meeting minutes from 20th March 2013, whereby (following approval by Executive Councillor for Housing at Community Services Scrutiny Committee on 14th March) the committee resolved to recommend that the Council treats its functions relating to the review of homelessness applications under the Housing Act 1996 as executive functions.
- 3.6 The minutes from Community Services Scrutiny Committee on 14th March 2013 confirm that the Executive Councillor for Housing resolved to support the recommendation made to Civic Affairs Committee that the Council treats its functions relating to the review of homelessness applications as executive functions and, subject to Council approval, to authorise the Director of Community Services to continue outsourcing the homelessness reviews process. Council approved this at its meeting on 18 April 2013. However, the recommendation for re-tendering the contract was for a period of a maximum of 5 years only, once the contract that was in place at that time had expired. The new contract that commenced on 30th September 2013 expired on 31st May 2017.
- 3.7 Based on Counsel's advice that we did not have up to date authorisation to outsource homelessness reviews when the review in this case was carried out, and that the review was therefore unlawful, we agreed by consent order, and without disclosing the reason behind this decision, to withdraw the review decision in the case and carry out a fresh review.
- 3.8 We currently have a number of other homelessness decisions that are awaiting review decisions and, without the necessary authority from Executive Councillor, are unable to instruct our external contractor to carry out these reviews. Furthermore, we will almost certainly continue

to receive new review requests on a regular basis. We have no available resource to carry out these reviews internally. For these reasons we are seeking an urgent decision on a recommendation to authorise the continued outsourcing of the homelessness reviews process.

- 3.9 Additionally, and as our current contract with Housing Reviews Limited expires on 30th September 2024, we are also seeking authority, subject to procurement regulations, to continuing outsourcing the review process for an indefinite period, or until such time as we wish to make other arrangements for carrying out homelessness reviews. This would avoid the need for us to obtain Executive Councillor approve to continue outsourcing the review function each time a contract with an external provider expires.
- 3.10 Furthermore, in line with Counsel's advice and in order to mitigate the risk of legal challenges against review decisions taken during that period, we are seeking retrospective authority for the outsourcing of homelessness reviews from 31st May 2017, the date when the previous authority, in effect, expired, until the date of authority to continue outsourcing the review process, if applicable.

a) Financial Implications

We have a contract in place with Housing Reviews Limited to carry our homelessness reviews and a designated budget for this purpose.

b) Staffing Implications

We do not have the staffing capacity to carry out reviews within the Housing Advice Service, which is one reason why we wish to continue outsourcing this work. To bring the work in-house would require additional staffing.

c) Equality and Poverty Implications

The Homelessness Code of Guidance states that housing authorities need to ensure that policies and decisions relating to homelessness and threatened homelessness do not amount to unlawful conduct under the Equality Act 2010 and comply with the Public Sector Equality Duty. In relation to homelessness reviews, these obligations apply whether or not reviews are

undertaken internally or by a third-party organisation like Housing Reviews Ltd. Therefore, an Equality Impact Assessment is not needed to inform decision making on this recommendation.

d) Net Zero Carbon, Climate Change and Environmental Implications

None.

e) Procurement Implications

Our contract with Housing Reviews Limited runs until 30th September 2024. Within the recommendation, we are seeking authority to procure further contracts for homelessness decision reviews after that date.

f) Community Safety Implications

None.

4. Consultation and communication considerations

None.

5. Background papers

Background papers used in the preparation of this report:

Report on homelessness reviews by the Director of Community Services for Community Services Scrutiny Committee on 14th March 2013 and minutes from that meeting.

Report on a constitution amendment in respect of the review of homelessness decisions by the Head of Legal Services for Civic Affairs Committee on 20th March 2013 and minutes from that meeting.

Recommendation to Council 18 April 2013 and minutes from that meeting.
[Agenda for Council on Thursday, 18th April, 2013, 6.00 pm - Cambridge Council](#)

6. Appendices

None.

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact Simon Hunt, Housing Services Manager – Housing Advice, Communities Group, Cambridge City Council.

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