



AGENDA ITEM:

SUMMARY

Report for:	Cabinet
Date of meeting:	16th December 2014
Part:	1
If Part II, reason:	

Title of report:	Homelessness Review Procedure
Contact:	Neil Harden, Portfolio Holder for Residents and Regulatory Services Author/Responsible Officer: Steve Baker, Assistant Director Chief Executive's Unit/Mark Brookes, Group Manager (Legal Governance)
Purpose of report:	To seek approval to interim delegation arrangements for the determination of reviews under section 202 of the Housing Act 1996.
Recommendations	<ol style="list-style-type: none"> 1. That Cabinet recommends to Council that the delegation to the Appeals Committee to determine section 202 homelessness reviews be amended so that this power is delegated on an interim basis to the Assistant Director (Housing) or the Group Manager (Strategic Housing) or Strategic Housing Team Leader. 2. The interim delegation in 1 above shall continue until full Council has received Counsel's opinion regarding the lawfulness of the Appeals Committee determining section 202 reviews and the Council has made a decision as to how these reviews are to be conducted in the future. 3. A further report be brought back to Cabinet and Council when Counsel's opinion has been received.

Corporate Objectives:	No specific links
Implications:	<u>Financial</u> Minimal impact as the report recommends an interim change to the constitution pending further consideration by Cabinet and Council.
'Value For Money Implications'	<u>Value for Money</u> As above
Risk Implications	If the constitution remains unamended, legal proceedings have already been threatened by an applicant so this is a real risk which needs to be eliminated.
Community Impact Assessment	To be reviewed on receipt of Counsel's opinion.
Health And Safety Implications	None
Monitoring Officer/S.151 Officer Comments	Monitoring Officer: This is a Monitoring Officer report S.151 Officer No comments
Consultees:	None
Background papers:	None
Glossary of acronyms and any other abbreviations used in this report:	None

Background

- Under the Housing Act 1996 the Council has a duty to provide advice and assistance to anyone who is homeless. If person make a homeless application the Council has to consider that person's individual circumstances and decide what, if any, housing duty is owed to that person by the Council. If that person disagrees with a decision made on their homeless application they may ask for a review (commonly referred to as a section 202 review). The County Court on the 10th December delivered a judgement in relation to a challenge of a section 202 review carried out by the Council's Appeals Committee on 24 September 2013.

2. Firstly, the Judge found that the decision was perverse given the evidence available to the Committee. Secondly, he found that the Committee did not have the power to deal with the section 202 review as the wording of the delegation to the Appeals Committee in the Council's Constitution did not permit the Committee to hear section 202 reviews.

The Constitution reads –

'The function of the Appeals Committee is to hear and determine all appeals against any decision made by or on behalf of the Council in relation to the following matters:

- (ii) The determination of appeals against decisions made by the Council in respect of homelessness claims where persons have been served with a notice under s.202 of the Housing Act 1996 as being either:
 - (a) Not homeless or threatened with homelessness
 - (b) Not in priority need
 - (c) Intentionally homeless'

The Judge indicated that the words in (ii) suggested that a section 202 review must already have taken place before the matter can be determined by the Appeals Committee and therefore the Committee did not have the delegated power to hear and determine section 202 reviews.

3. The Judge did not go on to consider whether or not the Appeals Committee could lawfully be delegated to determine section 202 reviews at all. This legal point was therefore left unresolved.

The Judge quashed the review decision which means that a fresh review will need to be held.

4. Counsel's opinion has been sought as to whether section 202 reviews can be lawfully carried out by a Committee of Members or whether they can only be carried out by an officer. The Regulations made under the Housing Act 1996 which set out the review procedures allow section 202 reviews to be conducted by an officer provided they had no involvement in the original decision and are senior to the officer who made the initial decision. However, the Regulations do not appear to rule out section 202 reviews being conducted by a Committee of Members.
5. There is another section 202 review scheduled for January and this review will be postponed until this report is reported to Council on 14th January 2015.
6. The recommendation as set out above is that delegation to the Appeals Committee to determine section 202 homelessness reviews be amended so that this power is delegated on an interim basis to the Assistant Director (Housing) or the Group Manager (Strategic Housing) or Strategic Housing Team Leader. A further report will be brought back to Cabinet and Council once Counsel's opinion has been received to decide how to conduct reviews in the future.

