



AGENDA ITEM:

SUMMARY

Report for:	Housing and Community Overview & Scrutiny Committee
Date of meeting:	18th March 2015
PART:	2
If Part II, reason:	The report contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Title of report:	Homelessness Review Procedure
Contact:	Cllr Neil Harden, Portfolio Holder for Residents and Regulatory Services Author/Responsible Officer: Steve Baker, Assistant Director (Chief Executive's Unit)
Purpose of report:	To inform members of counsel's advice on the lawfulness of the use by the Council (presently suspended) of the Appeals Committee to determine statutory homelessness reviews pursuant to section 202 of the Housing Act 1996.
Recommendations	1. That the Committee considers the attached report to Cabinet concerning the future conduct of homelessness reviews pursuant to section 202 of the Housing Act 1996 in light of counsel's advice. 2. That the Committee decides whether it wishes to make any comments on the report for consideration by Cabinet at its meeting on 24 th March.
Corporate objectives:	No specific links
Implications:	<u>Financial</u> If the Appeals Committee process for dealing with section 202 reviews is reinstated, counsel has advised that there is a risk that this will lead to further appeals to the county

'Value For Money Implications'	<p>court based on procedural grounds. Even where the Council is successful in such proceedings it is unlikely to be able to recover its legal costs. These could be in the region of £10,000 per case. If the Council is unsuccessful it could also be faced with a claim for the appellant's costs of up to £30,000 per case (as evidenced by a recent county court appeal case).</p> <p><u>Value for Money</u></p> <p>As above.</p>
Risk Implications	See financial implications above.
Equalities Implications	To be reviewed after the revised procedure has been drawn up.
Health And Safety Implications	None
Consultees:	As set out in the attached Cabinet Report.
Background papers:	As set out in the attached Cabinet Report.
Historical background (<i>please give a brief background to this report to enable it to be considered in the right context</i>).	Please refer to paragraphs 1 to 4 of the attached Cabinet Report which sets out the historical background.
Glossary of acronyms and any other abbreviations used in this report:	

BACKGROUND

1. Members will be aware of the decision of the County Court in the case of MacLean, which was an appeal against a determination of a homelessness review by the Appeals Committee. The decision of the court was to uphold the appeal and one of the grounds cited was that the Appeals Committee did not have the delegated power to determine reviews under section 202 of the Housing Act 1996 because of inadequate wording of the Council's Constitution. The matter was reported to Cabinet at its meeting on 16th December 2014 when it was resolved:

- (i) *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.

- (ii) The interim delegation in (i) 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.*
 - (iii) A further report be brought back to Cabinet and Council when Counsel's opinion has been received.*
2. Council approved recommendation (i) above at its meeting on 14th January 2015 and therefore section 202 reviews are presently determined by a senior housing officer.
 3. Following the receipt of counsel's advice on the lawfulness of the Appeals Committee determining section 202 reviews, a further report for Cabinet has been prepared. A copy of the report, which will be considered by Cabinet at its meeting on 24th March, is attached. Members are asked to consider the report and decide whether they wish to make any comments on it.