

Appendix 1

SECTION 202 HOUSING ACT 1996 REVIEW PROCEDURE

The procedure of the Appeals and Reviews Committee (“the Committee”) will be as follows:

1. The Chairman will ask whether any Member has an interest to declare.
2. The Chairman will establish whether all Members of the Committee have read the papers before them. It is the practice and requirement of the Committee that its members shall have read all such papers prior to the review hearing.
3. The Chairman will open the review by:
 - (a) stating the nature of the review matter to be considered, (including a reference to the relevant section of the Housing Act 1996) and
 - (b) explaining whether the procedure to be followed is:
 - i. A review of those decisions referred to at section 202(1) of the Housing Act 1996, or
 - ii. A reconvened hearing following a Regulation 8 (*Allocation of Housing and Homelessness (Review Procedures) Regulations 1999*) ‘minded to’ decision letter.
4. The Committee will ensure that the requirements of the Allocation of Housing and Homelessness (Review Requirements) Regulations 1999 (“the Regulations”) have been complied with, in particular that the Applicant has been advised of their right to make written representations, of the procedure to be employed by the Council in determining the review following receipt of the review request and that the review decision will be made within the periods provided for at paragraph 9 of the Regulations unless the parties have agreed an extension in writing.

Review of those decisions referred to in section 202(1) of the Housing Act 1996

The section 184 Housing Act 1996 decision (inquiry into cases of homelessness or threatened homelessness)

5. The Committee will consider the following:
 - (a) The relevant decision as referred to at paragraph 3(b)(i) above (“the relevant decision”);
 - (b) The Applicant’s written submissions and documentary evidence (including those prepared on behalf of the Applicant), if any;
 - (c) The results of any investigations carried out by the Council and the homelessness file in relation to the particular case; and
 - (d) All relevant statutory and regulatory provisions and relevant parts of the Homelessness Code of Guidance for Local Authorities.
6. Having considered those matters referred to at paragraph 5 above the Committee shall make one of the following unanimous/majority decisions:
 - (a) uphold the relevant decision; or
 - (b) reject the relevant decision as being incorrect in law, incorrect on the facts, or both and thereby find in favour of the Applicant; or

- (c) adjourn the hearing in order for the Committee to obtain further information from the Applicant or others (bearing in mind the time limits to reach a decision as referred to at paragraph 4 above). All new information shall be made known to the Applicant and they will be invited to comment in writing prior to the reconvened hearing; or
 - (d) decide that although there is a deficiency or irregularity in the relevant decision, or the manner in which it was made, the Committee is nevertheless 'minded to' make a decision that is against the Applicant's interests on one or more issues (Regulation 8 of the Regulations). In such circumstances the review will be adjourned and the Applicant will be so advised with proper reasons provided of the 'minded to' decision and given a reasonable opportunity to make written and/or oral submissions in response. A reconvened hearing will thereafter be held in accordance with paragraph 3(b)(ii) above.
7. In the circumstances mentioned in paragraph 6 (a) above, the Committee will inform the Applicant of its reasons in writing in accordance with section 203(4) (5) and (8) of the Housing Act 1996 (i.e. the decision shall be in writing, with reasons and giving notice of the Applicant's right to appeal to the county court).
 8. In the circumstances mentioned in paragraph 6 (b) above, the Committee will inform the Applicant in writing that their application for review has been successful and the repercussions of such a decision as regards Part VII of the Housing Act 1996.
 9. In reaching a decision under paragraph 6 (a) above the Committee shall provide substantive and full reasons for inclusion in the decision letter.

The Section 210 Housing Act 1996 decision (suitability of accommodation)

10. The Committee may consider the following:
 - (a) The section 210 Housing Act 1996 offer of accommodation; and
 - (b) The Applicant's written submissions, if any.
11. When considering the section 210 Housing Act 1996 offer of accommodation and the Applicant's submissions the Committee will do the following:
 - (a) uphold the section 210 Housing Act offer of accommodation as suitable; or
 - (b) reject the section 210 Housing Act offer of accommodation as being unsuitable.
12. In the circumstances mentioned in paragraph 11 (a) above, the Committee will inform the Applicant of its reasons in writing in accordance with section 203(4), (5) and (8) of the Housing Act 1996 (i.e. the decision shall be in writing, with reasons and giving notice of the Applicant's right to appeal to the county court).
13. In the circumstances mentioned in paragraph 11 (b) above, the Committee will inform the Applicant in writing that their application for review has been successful and the repercussions of such a decision as regards Part VII of the Housing Act 1996.

Reconvened review following an adjournment

14. The Committee will consider the following:
 - (a) All those matters referred to at paragraph 5 above;
 - (b) The Applicant's further written submissions, if any;
 - (c) Any further information provided by the Applicant, if any; and
 - (d) The results of any further investigations carried out by the Council since the adjournment and any response by the Applicant to the same.
15. Having considered those matters referred to at paragraphs 5 and 10 above the Committee shall make one of the unanimous/majority decisions referred to at paragraph 6(a) (b) and (d) above (paragraphs 7, 8 and 9 above thereafter applying if and as appropriate).

Reconvened review following a Regulation 8 'Minded to' decision letter

16. The Committee will consider the following:
 - (a) The Regulation 8 'minded to' decision;
 - (b) The Applicant's written and/or oral submissions, if any;
 - (c) Any other relevant information.
17. When considering the Regulation 8 'minded to' decision and the Applicant's submissions the Committee may do the following:
 - (a) Uphold and confirm the 'minded to' decision; or
 - (b) reject the section 184 Housing Act decision as being incorrect in law, incorrect on the facts, or both;
18. In the circumstances mentioned in paragraph 17 (a) above, the Committee will inform the Applicant of its reasons in writing in accordance with section 203(4), (5) and (8) of the Housing Act 1996 (i.e. the decision shall be in writing, with reasons and giving notice of the Applicant's right to appeal to the county court).
19. In the circumstances mentioned in paragraph 17 (b) above, the Committee will inform the Applicant in writing that their application for review has been successful and the repercussions of such a decision as regards Part VII of the Housing Act 1996.

Right to Appeal

20. An Applicant has a right to appeal against any final decision of the Committee as provided for at section 204(1) of the Housing Act 1996 (details of which will be provided in the decision letter).