

**Appendices**

None

**CABINET REPORT****Report Title****Improving the efficiency of the Homelessness Reviews Service****AGENDA STATUS:****PUBLIC**

|                                    |                            |
|------------------------------------|----------------------------|
| <b>Cabinet Meeting Date:</b>       | 13 September 2017          |
| <b>Key Decision:</b>               | Yes                        |
| <b>Within Policy:</b>              | Yes                        |
| <b>Policy Document:</b>            | No                         |
| <b>Directorate:</b>                | Chief Executive's          |
| <b>Accountable Cabinet Member:</b> | Councillor Stephen Hibbert |
| <b>Ward(s)</b>                     | All                        |

**1. Purpose**

- 1.1 In Northampton, the number of homelessness applications has doubled during the past 18 months and, despite Officers' best efforts, caseloads have risen sharply and the number of outstanding homelessness decisions has increased to more than 200.
- 1.2 Households that have made a homelessness application have the right to request a review of any decision that the Council has made if they do not agree with it and, unless they agree to an extension of the review period, the Council must complete the homelessness review within 56 days.
- 1.3 When they request a review, households that are living in temporary accommodation will often ask the Council to extend their stay pending the outcome of the review and, if this request is refused, they may challenge this decision through judicial review.

- 1.4 A comprehensive action plan has been developed to clear the backlog of outstanding homelessness decisions and reduce Officers' caseloads, as part of a wider strategy for reducing the number of households in temporary accommodation. However, the strategy will fail if the backlog of outstanding homelessness decisions is simply replaced by a backlog of outstanding homelessness reviews.
- 1.5 The purpose of this report is to ask Cabinet to approve the outsourcing of the homelessness reviews function to a suitably qualified person or organisation in order to improve efficiency and reduce the use and cost of temporary accommodation.

## **2. Recommendations**

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- 2.1 It is **recommended** that Cabinet:
- (a) Approves the outsourcing of the homelessness reviews function to a suitably qualified person or organisation on a contracted basis; and
  - (b) Delegates to the Borough Secretary, in consultation with the Chief Finance Officer and the Cabinet Member for Housing and Wellbeing, the authority to award the homelessness reviews contract for a period of 2 years with an option for a third year.

## **3. Issues and Choices**

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### **3.1 Report Background**

- 3.1.1 During the past 18 months, the Council has struggled to deal with a sharp rise in the number of homelessness applications and, as a result, a significant backlog of more than 200 outstanding homelessness decisions has built up and the number of homeless households living in temporary accommodation has more than doubled.
- 3.1.2 The problem has been compounded by the Council's difficulty in recruiting experienced Homelessness Officers to cover for maternity leave and vacant posts.
- 3.1.3 As at 22 August 2017, the situation was as follows:
- 186 homeless households were living in temporary accommodation (including 87 households in Bed & Breakfast accommodation)
  - 40 homeless households were living in temporary accommodation that is situated outside of the Northampton borough
  - The average caseload of each full-time Homelessness Officer was 50
  - The net cost (to the Council) of providing homeless households with temporary accommodation was more than £50,000 per month
- 3.1.4 As part of a comprehensive action plan that has been developed to reduce the use and cost of temporary accommodation, the Council has set aside additional funding from its housing reserves to clear the backlog of outstanding homelessness decisions, reduce by two thirds the caseload of each Officer and reduce, to 4 weeks, the average time it takes Homelessness Officers to make decisions.

- 3.1.5 The demand for homelessness reviews and temporary accommodation is expected to increase from April 2018 when the Homelessness Reduction Act 2017 comes into effect, extending local authorities' duties to people at risk of homelessness.

Applicants' right to request a review of a homelessness decision

- 3.1.6 When a homelessness decision is made, the applicant has 21 days to request a review of that decision. Requests made outside of this period will not normally be considered, unless there are good reasons why the request is made late.
- 3.1.7 When applicants request a review, they do not have to do this in writing and they are not required (at that stage) to provide grounds for challenging the decision.
- 3.1.8 In order to formulate the grounds upon which they will be relying to challenge the Council's homelessness decision(s), the applicant or their advocate will often request a copy of the homelessness file. This is usually provided within 7 days.

The procedures that need to be followed when carrying out homelessness reviews

- 3.1.9 The procedures that housing authorities must comply with when carrying out homelessness reviews are set out in the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999 (SI 1999 No.7).
- 3.1.10 It is a requirement that the Officer who carries out the homelessness review (the Review Officer) must not have been involved in the original decision, and must be senior to the Officer who made the original homelessness decision.
- 3.1.11 Following receipt of a request for a review, the applicant must be invited to make written representations – and to provide any new information – in relation to the request. A period of 14 days is deemed enough time for the applicant to do this.
- 3.1.12 If the Review Officer identifies a deficiency or irregularity in the original decision – or in the way in which the original decision was made – but is still minded to make a decision which is not in the applicant's interests, they must notify the applicant that:
- They are so minded and the reasons why; and
  - The applicant is able to make oral representations and/or further written representations within a reasonable period.
- 3.1.13 The Regulations specify that the applicant must be notified of the Review Officer's decision within 56 days of the review request being received unless both parties agree to an extension because of, for example, a justifiable delay in getting information or completing enquiries, or the need to consider late representations.
- 3.1.14 The Council has the power to provide the applicant and members of their household with accommodation until the Review Officer has made a decision. Where temporary accommodation is provided, the Council must give an applicant reasonable notice to vacate it following an unsuccessful review.

## 3.2 Issues

### The importance of completing homelessness reviews within 56 days

- 3.2.1 Even though there is provision within the Regulations for the review period to be extended beyond 56 days, it is in everyone's interests for the Council to ensure that all homelessness reviews are completed in a thorough and timely manner.
- 3.2.2 If the Council fails to complete the homelessness reviews within the 56 days, it will be vulnerable to legal challenge unless an extension is agreed with the applicant. If the applicant is living in temporary accommodation, the cost of the extended stay will simply increase the pressure on the Council's budget.
- 3.2.3 Based on the average nightly cost of Bed & Breakfast accommodation, the net cost (to the Council) of extending the homelessness review period beyond 56 days will amount to around £275 a week (almost £1,200 a month).

### Future demand for homelessness reviews

- 3.2.4 Between 1 August 2016 and 31 July 2017, the Homelessness Officers investigated and made decisions on 671 homelessness applications.
- 3.2.5 Of these 671 decisions, 497 (74%) resulted in the Council accepting a rehousing duty, and 174 (26%) resulted in non-acceptance because the applicant was ineligible, not homeless, not in priority need or intentionally homeless.
- 3.2.6 Between 1 August 2016 and 31 July 2017, the Council received 29 requests for a review of the homelessness decisions it had made. Although this was equivalent to only one homelessness review request every fortnight, the number of requests is expected to increase quite significantly when the large backlog of outstanding homelessness decisions is cleared during September and October 2017.
- 3.2.7 It is likely that a much larger proportion of the decisions made in relation to the backlog of homelessness applications will be non-acceptance because these are the applications that take the most time to investigate and determine, so are most likely to have been set aside by the Homelessness Officers.
- 3.2.8 If half of the outstanding homelessness applications result in non-acceptance and between 30% and 40% of the applicants receiving such a decision request a review, this could result in between 30 and 40 requests for homelessness reviews. To these will be added those reviews that are requested by applicants for whom the Council has accepted a rehousing duty but are contesting the suitability of the council or housing association home that they are offered.
- 3.2.9 Such a large number of review requests will require a substantial amount of the Senior Officers' time between now and Christmas 2017, distracting them from their other priorities: reducing the use and cost of temporary accommodation and ensuring that all homelessness decisions are made within an average of 4 weeks.

- 3.2.10 When the Homelessness Reduction Act comes into effect in April 2018, local authorities' duties towards people who are homeless or at risk of becoming homeless will be extended and this is expected to result in an increase in the number of homelessness decisions made, together with a corresponding increase in the number of requests that are received for a review of the decisions.
- 3.2.11 Although it is difficult to forecast future demand for homelessness reviews, it is reasonable to assume that the number will increase substantially from their current rate of one a fortnight to as many as five a week between now and Christmas 2017.
- 3.2.12 Given this imminent spike in demand – and the likelihood of an increase in the demand for reviews in 2018/19 – it is essential that consideration is given to how best the Council can respond to the high demand for homelessness reviews without jeopardising its success in reducing the use and cost of temporary accommodation.

#### Opportunities to outsource the homelessness reviews function

- 3.2.13 Some local authorities have been outsourcing their homelessness reviews function for more than a decade, and a number of organisations now offer a specialist housing reviews service and charge a standard rate for each review completed.
- 3.2.14 For a charge of up to £275 + VAT, the organisation will carry out a homelessness review, on behalf of the local authority, in accordance with the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999 (SI 1999 No.7).
- 3.2.15 Although some local authorities have outsourced their homelessness reviews function in order to achieve value for money, others have chosen to do so because they are struggling to cope with a high number of review requests and/or are unable to recruit a Review Officer to undertake the homelessness reviews in-house.
- 3.2.16 In Northampton, outsourcing is being considered as a means of improving the efficiency of the reviews service and ensuring that the Homelessness Team always has sufficient capacity to complete all homelessness reviews within 56 days and clear the backlog of outstanding homelessness decisions, reduce the Homelessness Officers' caseloads and minimise the use and cost of temporary accommodation.

### **3.3 Choices (Options)**

- 3.3.1 Officers have considered the various options available and have concluded, for the reasons set out below, that it is in the Council's best interests to outsource the homelessness reviews function to a person or organisation that has the expertise, track record and capacity to complete homelessness reviews, on the Council's behalf, to the required standard and within the 56 days specified in the Regulations.

#### Option 1 (Preferred)

- 3.3.2 The preferred option is for Cabinet to approve the outsourcing of the homelessness reviews function to a suitably qualified person or organisation, as a call-off arrangement for a period of 2 years with an option for a third year.

- 3.3.3 Such an arrangement will provide the Homelessness Team with the flexibility that it requires to successfully manage 'peaks and troughs' in the demand for homelessness reviews by ensuring that, when the number of requests exceeds what the Senior Officers have the capacity to deal with, these review requests can be passed to the external contractor to deal with within the agreed timescales.
- 3.3.4 By making optimum use of the time and resources of the contractor, the Council will be able to improve the efficiency of the homelessness reviews process, minimise the risk of any legal challenge in relation to the statutory timescales, and avoid unnecessary, prolonged stays in temporary accommodation.
- 3.3.5 As the contractor will make a standard charge for each homelessness review completed, the annual cost of the outsourced homelessness reviews service will reflect the volume of review requests received. This is preferable to the fixed costs that the Council would incur if it appoints its own part-time Review Officer.
- 3.3.6 It is anticipated that, after the homelessness backlog is cleared and all of the subsequent homelessness reviews have been dealt with, the number of reviews referred to the external contractor will be less than 50 per annum.
- 3.3.7 Assuming that the external contractor is employed to undertake 50 homelessness reviews between now and the end of March 2018 – and then up to 50 homelessness reviews per annum from April 2018 – the additional cost of the outsourced homelessness reviews service will be up to £13,750 + VAT per annum.
- 3.3.8 This additional cost is substantially less than the £22,000 per annum it is likely to cost the Council to employ a part-time Review Officer for 20 hours a week and, as the cost of each review (up to £275 + VAT) is equivalent to the average net cost of accommodating a homeless household in Bed & Breakfast accommodation for an extra week, it hoped that the homelessness reviews contract will pay for itself by reducing the amount of time that homeless households spend in Bed & Breakfast.
- 3.3.9 Although the outsourcing of the homelessness reviews function will necessitate close monitoring, the procurement process used by the Council will ensure that the organisation that is contracted to undertake the work has the expertise, track record and capacity to complete homelessness reviews, on the Council's behalf, to the required standard and within the 56 days specified in the Regulations.

#### Option 2 (Not recommended)

- 3.3.10 Another option that was considered was for Cabinet to approve the outsourcing of the homelessness reviews function to a suitably qualified organisation, as a call-off arrangement, but 'pilot' the arrangement for a year before re-tendering the contract for a period of 2 years with an option for a third year.
- 3.3.11 Although this option offers all of the advantages of Option 1, the shorter contract term will involve a lot more input from Officers which would be better spent on reducing the use and cost of temporary accommodation and ensuring that, after the backlog of outstanding homelessness decisions has been cleared, the Homelessness Officers' caseloads remain manageable and all homelessness decisions are issued within an average of 4 weeks.

#### Option 3 (Not recommended)

- 3.3.12 Another option that was considered was for Cabinet to approve the recruitment of a part-time Review Officer (a homelessness specialist) who will be responsible for undertaking all homelessness reviews, in-house.
- 3.3.13 Although this option would enable the Homelessness Team to meet the increased demand for homelessness reviews and minimise the use of temporary accommodation without the need for the Council to outsource its homelessness reviews function to an external contractor, the cost of employing an in-house Review Officer (approximately £22,000 per annum) would not offer good value for money, compared to the use of an external contractor (£13,750 + VAT per annum).
- 3.3.14 As the role of a Reviews Officer is very specialist, there is no guarantee that the Council will be able to recruit someone who has all of the skills, knowledge and experience that it needs and is seeking from this part-time role.

Option 4 (Not recommended)

- 3.3.15 Another option that was considered was for the Council to do nothing.
- 3.3.16 If Cabinet decides to do nothing, there is a strong likelihood that the backlog of outstanding homelessness decisions will simply be replaced by a backlog of outstanding homelessness reviews. This will have an adverse effect on staff morale and result in unnecessarily extended stays in temporary accommodation for households to whom the Council owes no rehousing duty.

#### **4. Implications (including financial implications)**

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##### **4.1 Policy**

- 4.1.1 The action that the Council is proposing to take is in line with Council policy and reflects the priorities in the Corporate Plan 2016-20.

##### **4.2 Resources and Risk**

- 4.2.1 A comprehensive action plan – funded, in the main, from housing reserves – has been developed to clear a large backlog of outstanding homelessness decisions, reduce the Homelessness Officers' workloads, ensure that homelessness decisions are made more quickly, and reduce the use and cost of temporary accommodation.
- 4.2.2 At this stage, Cabinet is being asked to approve the outsourcing of the Council's homelessness reviews function in order to improve the efficiency of the service and prevent homeless households spending too long in temporary accommodation while they await the outcome of their homelessness review. This will support the Council's efforts to substantially reduce its expenditure on temporary accommodation.
- 4.2.3 The outsourcing of the homelessness reviews function is dependent upon the successful procurement of the service from a suitably qualified person or

organisation. Cabinet is therefore being asked to delegate to the Borough Secretary, in consultation with the Chief Finance Officer and the Cabinet Member for Housing and Wellbeing, the authority to award the homelessness reviews contract, as a call-off arrangement, for a period of 2 years with an option for a third year.

- 4.2.4 As the external contractor will make a standard charge for each homelessness review completed, the cost of the outsourced homelessness reviews service will reflect the volume of review requests that are received. This is preferable to the fixed costs that the Council will incur if it appoints its own part-time Review Officer and, based on the higher end estimate of £275 + VAT per review, it is expected that the extra costs incurred in outsourcing the homelessness reviews service will be offset in full by the savings achieved in reducing the time spent in Bed & Breakfast.
- 4.2.5 It is noted that the rate of review requests referred to the external contractor is expected to decrease to around one a week after the homelessness backlog has been cleared and all of the subsequent homelessness reviews have been dealt with.
- 4.2.6 Given the high cost of providing temporary accommodation, it is essential that the process the Council uses to procure the homelessness reviews service ensures that the organisation selected has the capacity and track record to complete all reviews to the required standard and within 56 days. If this is not done, there is a real risk that the extra cost of extending applicants' stay in temporary accommodation will exceed any savings that the Council might expect to achieve in relation to the contract price.
- 4.2.7 The Housing and Wellbeing Service will ensure that robust monitoring arrangements are put in place to ensure that the homelessness reviews contract improves the efficiency of the service and meets the Council's requirements and objectives.

### **4.3 Legal**

- 4.3.1 Article 3 of the Local Authorities (Contracting out of Allocation of Housing and Homelessness Functions) Order 1996 states that any function of an authority which is conferred under Part 7 of the Housing Act 1996 with regard to homelessness may be outsourced by that authority to an external person or organisation, with a few exceptions. However, the review of homelessness decisions under sections 202 to 204A of the Housing Act 1996 is not one of those exceptions.
- 4.3.2 There are no human rights considerations over and above the usual considerations when reviewing homelessness applications. The Council would be liable for the decision made by the external organisation at review, regardless of the fact that the review itself had been outsourced, and so care should be taken to instruct an external organisation that is experienced in the field of Part 7 of the Housing Act 1996 and specifically homelessness reviews conducted under section 202 of that Act.
- 4.3.3 It is understood that the purpose of contracting out the homelessness reviews function is to provide the Homelessness Team with the extra capacity and flexibility that it needs in order to ensure that, even when it receives more review requests than it has time to deal with, it is still able to complete all homelessness reviews on time.
- 4.3.4 The service that is procured must, therefore, provide the Council with the flexibility it needs to determine the proportion of homelessness reviews undertaken by the appointed contractor. Close monitoring of the contractor's performance is required.
- 4.3.5 The Council's Contract Procedure Rules will have to be observed and as such this will require written quotations from a minimum of three suppliers.

4.3.6 The risk of challenge to the outsourcing decision itself is small. The risk of challenge to individual review decisions would be an appeal to the County Court in accordance with section 204 of the Housing Act 1996 or judicial review. The risk of doing nothing as highlighted in the report is that the Council continues to incur expenditure on temporary accommodation caused by a backlog of reviews.

#### **4.4 Equality and Health**

4.4.1 There are no equality implications because no homeless households will be adversely affected by this decision. All homelessness reviews will continue to be undertaken in accordance with the statutory requirements.

4.4.2 Improving the efficiency of the homelessness reviews service will ensure that applicants do not have to wait too long for the outcome of their homelessness review. This will help to improve their health and wellbeing.

#### **4.5 Consultees (Internal and External)**

4.5.1 The Homelessness Team has consulted with Council Officers and Members.

4.5.2 Before the new arrangements are put in place, discussions will take place with the appointed contractor, homeless applicants and other stakeholders to ensure that all procedures are fit for purpose and help deliver an excellent reviews service.

#### **4.6 How the Proposals deliver Priority Outcomes**

4.6.1 The outsourcing of the homelessness reviews function will help meet 2 of the priorities in the Corporate Plan:

- **Housing for Everyone.** It will support the delivery of the Council's strategy for clearing the backlog of outstanding homelessness decisions, speeding up homelessness decisions and reducing the amount of time that homeless households spend in temporary accommodation.
- **Working Hard and Spending your Money Wisely:** It will help to reduce the use and cost of temporary accommodation by ensuring that all homelessness reviews are completed in a timely manner and that Senior Officers do not spend a disproportionate amount of their time carrying out reviews.

#### **Appendices**

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None

#### **Background Papers**

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None

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