

## PART A

**Report to:** Cabinet  
**Date of meeting:** 22 January 2018  
**Report of:** Head of Housing  
**Title:** Homelessness Reviews Framework Agreement

### 1.0 Summary

- 1.1 This report sets out the proposal to use external providers to undertake Homelessness Reviews required as part of its statutory duties set out in S202 of the Housing Act 1996 (as amended by the Homelessness Act 2002) and the Homelessness Reduction Act 2017. Under the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Function) Order 1996, councils have been able to delegate out these homelessness review decisions since January 1997.
- 1.2 Cabinet is requested to approve the establishment of a framework agreement as a mechanism to deliver Homelessness Reviews and approve the contracting out of the homelessness review function.

### 2.0 Risks

2.1

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(Treat, tolerate, terminate, transfer)</i>	<b>Risk Rating</b> (the combination of severity and likelihood)
Legal challenge that:  1. The Homelessness Reviews framework option has not been approved by Cabinet; 2. The Council	Additional officer time and associated legal expense in defending legal challenges	Cabinet to make decision to approve framework option and delegate its housing review function.	Treat	2

has not formally delegated its reviews function.				
Maintaining one supplier	Supplier is unable to meet deadlines	Cabinet approves the Homelessness Reviews Framework Agreement	Treat	2
No acceptable providers appointed following procurement process	Remain as is with one supplier	Review option of bringing in additional staff resources	Treat	2

### 3.0 Recommendations

That Cabinet:

- 3.1 Agrees to the establishment of a framework agreement to enable the Council to appoint suppliers to undertake homelessness reviews and other related work;
- 3.2 Delegates to the Head of Housing the authority to select and appoint the suppliers to the Framework panel;
- 3.3 Delegates approval of the specific terms of the framework agreement and associated contract documentation to the Head of Housing, in consultation with Legal Services;
- 3.4 Delegates under Article 3 of the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Function) Order 1996 the function of undertaking homelessness reviews under section 202 of the Housing Act 1996 and related homelessness reviews work to the selected framework panel providers on behalf of the Council.

**Contact Officer:**

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**Report approved by:** Nick Fenwick (Deputy Managing Director)

## 4.0 Detailed proposal

### 4.1 Legal Context

4.1.1 Applicants seeking a local authority's assistance because they consider they are homeless may, under S202 of the Housing Act 1996 (as amended by the Homelessness Act 2002) request a review of decisions taken by a local authority in their case on a range of issues including:

- Their eligibility for assistance
- Whether a statutory duty to house is owed to them under the Act
- Whether accommodation the local authority has offered is suitable as temporary accommodation or as discharge of the local authority's duty
- Requests for accommodation pending the outcome of either a review decision or a county court appeal (Mohammed letters)

Any S202 reviews must be completed within 56 days from receiving the request to review a decision.

4.1.2 Under current legislation, homeless applicants have the ability to request a review of up to two types of local authority decision made on their application. The Homelessness Reduction Act 2017 (HRA17) increases significantly the types of local authority decisions that can be reviewed to 13 (see sections 19.3 of Appendix 1). Because each homeless application is different, all 13 types of decision-making will not be required for every application. However, it is envisaged that each homeless applicant could exercise their right to request a review of up to five decisions a local authority can make on their application. Consequently HRA17 will involve a significant increase in S202 reviews workload.

4.1.3 The current Homelessness Review contract with one provider has been in place since 2014 is due to expire in August 2018 and there are no plans to terminate this contract. Two significant issues have arisen with this contract:

- the council has been legally challenged a number of times about the process the council originally followed to appoint the provider and also whether they can legally conduct reviews on the council's behalf. To date all challenges have been successfully defended.
- having a single provider of the reviews function has proved challenging when taking into account the number of reviews and has highlighted capacity issues – this results in an increase in costs to the council of temporary accommodation and officer time.

Under the Local Authorities (Contracting Out of Allocation of Housing and

Homelessness Function) Order 1996, councils have been able to delegate out these decisions since January 1997.

## 4.2 Framework Agreement proposal

4.2.1 In considering a new operating model for Housing Services to meet the increased reviews workload arising from the HRA17, the council considered the following:

- Appointing a number of additional officers to conduct reviews itself
- Creating a framework agreement to enable the council to have access to a wide range of reviews providers

4.2.2 The option of appointing additional officers was discounted on the basis that:

- it would require a new team to be set up which would be costly and difficult to achieve
- the council needed to retain flexibility and be able to assess actual reviews workload as HRA17 beds in.

The council may decide to appoint reviews officers in the future.

4.2.3 The framework agreement approach involves selecting a series of providers, through a tender process, to form a panel of suppliers. An agreement (Framework Agreement) between the panel members and the council would be drawn up and the Council would “call-off” a contract with each supplier that it intends to seek review or other services from.

4.2.4 A framework agreement approach would enable the council to increase the number of providers it can work with and so be in the best position to respond in a timely and flexible way to the increased reviews workload envisaged under the HRA17.

The issues currently faced by the Council regarding capacity, prospective increase in demand due to HRA17 and legal challenges, are not exclusive to Watford. Under the terms of the framework agreement, it would be open to all Hertfordshire local authorities to call off contracts with the suppliers to assist with their homelessness reviews. Indeed, Three Rivers District Council have assisted in putting together the specification for the prospective framework agreement.

4.2.5 In December 2017, the council went out to competitive tender on a Framework Agreement for the provision of a Homelessness s202 Review Service. The tender for the Framework Agreement for the provision of Homelessness s202 Review Service closed on 18 January 2018. Applications from service providers received are now being evaluated.

The Framework Agreement length would be four years. Call-off contracts under the framework agreement may extend beyond that term, if awarded prior to the end of the framework agreement term. Details of the services the providers would be contracted to provide are detailed in Appendix 1 (Specification).

- 4.2.6 Given the legal challenges the council has faced in the past and that increased review workload requires access to more than one reviews provider, Cabinet is requested to approve the framework agreement option and contracting out of services related to our homelessness reviews function as per the recommendations above (paragraph 3).

## 5.0 **Implications**

### 5.1 **Financial**

- 5.1.1 The Shared Director of Finance comments that the full implications of the new framework are not yet known. There have been additional costs related to the implementation of the Housing Reduction Act 2017 built into the 2018/19 budget setting process. The implications will be monitored through the 2018/19 budget monitoring process.

### 5.2 **Legal Issues** (Monitoring Officer)

- 5.2.1 The Legal & Democratic Services Section Head comments that the primary legal issues are contained within the body of the report. There have additionally been legal challenges on the issue of whether a local authority can delegate its Equality Act 2010 responsibilities. There will need to be processes in place to ensure that the Council complies with its responsibilities under the Equality Act in each case.

### 5.3 **Equalities/Human Rights**

- 5.3.1 Having had regard to the council's obligations under s149(1) of the Equality Act 2010, an equalities impact assessment has not been undertaken for the implementation of the Framework Agreement for the provision of a Homelessness s202 Review Service. This is because s202 homelessness reviews are being taken account of in the equalities impact assessment currently underway for the related new operating model for the Housing Service which is the subject of a separate Cabinet Report.

The Human Rights of homeless applicants are protected through their statutory right to request reviews of local authority decisions taken on their homeless application.

### 5.4 **Staffing**

- 5.4.1 Staffing requirements related to the framework agreement involve monitoring the performance of providers appointed. This will be part of the role of the Housing Performance and Policy Trainee Role set out in the related Cabinet report on the new operating model for Housing Services.

5.5 **Accommodation**

5.5.1 None

5.6 **Community Safety/Crime and Disorder**

5.6.1 Not applicable

5.7 **Sustainability**

5.7.1 Not applicable

## **Appendices**

Appendix 1: Specification for the Framework Agreement for the provision of a Homelessness s202 Review Service

## **Background Papers**

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- Specification for the Framework Agreement for the provision of a Homelessness s202 Review Service

## **File Reference**

- *None*