

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



SPECIFICATION

for

**Framework Agreement
for the provision of a**

Homelessness s202 Review Service

December 2017

Specification of Requirements (SOR)

The duties of local housing authorities to a person who applies as homeless is governed by Part 7 of the Housing Act 1996, as amended by the Homelessness Act 2002, Localism Act 2011 and Homelessness Reduction Act 2017.

Local Housing Authorities (the Councils) must make such enquiries as are necessary to satisfy themselves whether the applicant is eligible for assistance and what, if any, duty is owed to them. The applicant has the right to request a review of any such decision and decisions relating to the suitability of accommodation offered to them in discharge of the duty owed.

The review of the decision must be conducted by someone who is independent and senior of the original decision maker.

If the applicant is dissatisfied with the decision on review, they may appeal to the county court on a point of law.

The Councils are permitted to outsource the homelessness review process and for a number of years, a consultant has been appointed to carry out this work on behalf of the Councils. This is in acknowledgement of resource constraints within the Council and the preference of some applicants to have decisions independently reviewed.

The Councils are looking to commission suitably qualified and experienced organisations (the reviewer) to undertake reviews into homelessness decisions under its statutory function of Section 202 of the Housing Act 1996 (as amended by relevant legislation).

To meet its statutory duties the Councils are seeking to contract out a framework agreement for a period of 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, for a further two years, commencing in January 2018 for the the function of discharging duty under Section 202 of the Housing Act 1996 (as amended).

Legislative Background:

Section 202 of the Housing Act 1996, as amended by the Homelessness Act 2002, states:

An applicant may, within 21 days of being notified of it or longer if the authority agrees, request a review of any decision by a Local Authority concerning:

- (a) any decision of a local housing authority as to his/her eligibility for assistance,
- (b) any decision of a local housing authority as to what duty (if any) is owed to him/her under sections 190 to 193 and 195,
- (c) any decision of a local housing authority to notify another authority under section 198(1),
- (d) any decision under section 198(5) whether conditions are met for the referral of his/her case,
- (e) any decision under section 200(3) or (4),

- (f) any decision of a local housing authority as to the suitability of accommodation offered to him/her in discharge of their duty under any of the provisions mentioned in paragraph (b) or (e) or as to the suitability of accommodation offered to him/her as mentioned in section 193(7),
- (g) any decision of a local housing authority as to the suitability of accommodation offered to him/her by way of a private rented sector offer (within the meaning of section 193).

Any s202 reviews should be completed within 56 days from the date of the review request. The reviewer has the discretion to request an extension of time however they must agree this with the applicant requesting the s202.

The Homelessness Reduction Act 2017 introduces additional rights of review and the draft Homelessness Code of Guidance 2017 out for consultation states as follows;

Right to Request a Review

19.2 Applicants have the right to request the housing authority review their decisions on homelessness cases in some circumstances. If the request is made in accordance with section 202 the housing authority, or housing authorities, concerned must review the relevant decision.

19.3 Under section 202(1) an applicant has the right to request a review of a housing authority's decision:

- a. of their eligibility for assistance (i.e. whether they are considered to be a person from abroad who is ineligible for assistance under Part 7);
- b. what duty (if any) is owed to them in relation to the duties owed to persons found to be homeless or threatened with homelessness;
- c. of the steps they are to take in their personalised housing plan at the prevention duty;
- d. to give notice to bring the prevention duty to an end;
- e. of the steps they are to take in their personalised housing plan at the relief duty;
- f. to give notice to bring the relief duty to an end;
- g. to give notice under section 193B(2) in cases of deliberate and unreasonable refusal to co-operate;
- h. to notify their case to another authority under section 198(1) (i.e. a decision to refer the applicant at the main housing duty, to another housing authority because they consider that the conditions for referral are met.);
- i. under section 198(5) as to whether the conditions are met for the referral of their case to another housing authority at the relief duty or main housing duty (including a decision reached either by agreement between the notifying and notified authority, or taken by a person appointed under the *Homelessness (Decisions on Referrals) Order 1998* (SI 1998 No.1578) where agreement cannot be reached);

j. under section 200(3) (i.e. where a decision is made that the conditions for referral are not met and so the notifying housing authority owe the section 193 main housing duty) or a decision that the conditions for referral to a notified authority in Wales are met and the notified authority owe the section 193 main housing duty);

k. as to the suitability of accommodation offered to the applicant under any of the provisions in paragraph (b) or (j) above or the suitability of accommodation offered under section 193(7) in relation to allocations under Part 6. Applicants can request a review of the suitability of accommodation whether or not they have accepted the offer (section 202(1B));

l. as to the suitability of accommodation offered to the applicant by way of a private rented sector offer under section 193, or

m. as to the suitability of accommodation offered to the applicant by way of a final offer or a final Part 6 offer under section 193A or 193C. Applicants can request a review of the suitability of accommodation whether or not they have accepted the offer.

Workload context

The table below shows, by way of example, the number of cases that have been requested by two of the authorities for review over the last five financial years. The number of cases may vary for other authorities entitled to use the framework agreement:

Financial Year	Requested by Three Rivers DC	Requested by Watford BC
2012/13	7	5
2013/14	6	22
2014/15	8	51
2015/16	11	43
2016/17	7	22

The reviews contract is in place to allow for all rights of review available under s202 to be completed by the appointed organisations.

While the local authority is carrying out the review process, they have a power to provide the applicant with accommodation (s.188(3)). Once the review process has been completed, and the result communicated to the applicant, that power comes to an end. The applicant has the right to appeal to the County Court against an adverse decision on review (s.204). Pending resolution of the appeal, the local authority once again has a power to provide accommodation (s.204(4)).

These decisions whether or not to accommodate pending review / appeal are themselves open to challenge.

It is also required in the reviews contract for these decision letters to be completed for requests of temporary accommodation pending review bearing in mind R (Mohammed) v

Camden LBC [1997] 30 HLR 315. These decision letters should be completed by the reviewing officer who should liaise with the appropriate LA before issuing the decision on the LA's behalf.

1. Contractor's General Obligations

- 1.1 To deliver all services within this Specification commencing on 28th January 2018.
- 1.2 To take instruction from the appropriate Council to conduct reviews and Mohammed letters on its behalf in strict accordance with the Housing Act 1996 (as amended), other relevant legislation, the Homelessness Code of Guidance for local authorities and other good practice.
- 1.3 To ensure that work is undertaken by suitably experienced and qualified personnel, ensuring contingency for peak workloads or absence. A basic disclosure certificate (Disclosure Scotland) will be required for all personnel involved in the delivery of the service.
- 1.4 To ensure that review casework and correspondence is comprehensive, accurate and to a high standard, having regard to the Equalities Act 2010 and applying the Public Sector Equality Duty of which a review contractor has authority to do on behalf of the LA bearing in mind Panayioutou [2017] EWCA CIV 1624 .
- 1.5 To use their best endeavours to safeguard the good reputation of the Council at all times and particularly where a review does not uphold the original decision made by the Council.
- 1.6 To keep the Council informed of any relevant developments in legislation, case law or good practice which has a bearing on how homelessness reviews should be undertaken or the operation of this contract.
- 1.7 To ensure the secure storage of all data relating to the applicant and the operation of this contract, including effective systems for retrieving data for the purposes of performance monitoring, budget analysis and Freedom of Information or Data Protection requests.
- 1.8 To comply with the Data Protection Act 1998 and comply with protocols for the handling of data. To comply with the new General Data Protection Regulations after they come into force during 2018. To notify the Council of any breaches of data protection and return all new paperwork to the Council on completion of the review.
- 1.9 To keep the Council indemnified from and against any and all loss, damage or liability suffered and reasonable legal fees and costs incurred by the Council arising from or connected to or in relation to any breach of the terms of this specification.
- 1.10 To identify areas for improvement in initial decision making and communicate these to the Council in a timely manner.

2. Contract management

- 2.1 While there are active referrals under this contract, quarterly liaison will be established to exchange information between the parties on significant issues concerning the contract and those arising from the casework.
- 2.2 Regular liaison should be held for any case decisions or queries and specifically adverse decisions. The point of contact will be identified by TRDC and WBC.
- 2.3 Performance indicators at Appendix A will be provided by the Contractor on a quarterly basis and used by the council to support monitoring of the contractor's performance in relation to this contract.

3. Financial arrangements

The Consultant shall:

- 3.1 Obtain approval from the Council for any necessary additional costs prior to incurring them. This will include seeking approval for medical assessments or translation services. If approval is not given then costs will not be paid to the reviewer.
- 3.2 Submit a monthly invoice to the Council for completed reviews detailing the reviews undertaken and the relevant costs incurred.
- 3.3 Please see the Specification and Terms and Conditions regarding financial arrangements.

The Council shall:

- 3.4 Following completion of the review to a satisfactory standard, pay the consultant the agreed fee and associated costs within 30 working days of receipt of the monthly invoice.

Provisional timetable:

Below are some indicative dates for the tender submission:

Activity	Dates
Deadline for Submission	As shown on the portal
Evaluation of Tenders	January 2018
Notification of Decision	January 2018
Contract Start date	January 2018

Evaluation Criteria

The tender response should provide a detailed proposal, with associated costs, for delivering the service.

Bidders should outline how they would deliver the service and should include full details of methodology, service design, risk management and mitigation, key personnel involved in its delivery from within their organisation and a supporting statement that demonstrates their experience of conducting reviews.

The evaluation will be 80% based on the quality of the bid and 20% based on the cost of the bid.

Quality and cost will be assessed through the written method statement. Suppliers need to demonstrate the following in their method statement:

Quality Criteria	Description	Weighting %
Experience	Please explain your experience of undertaking Homelessness Reviews	35
Qualifications	Please list your qualifications to undertake Homelessness Reviews	5
Methodology	Please identify your process and methods for undertaking Homelessness reviews and dealing with increased volumes	20
Customer Care	Please identify your measures and methods to ensure a high standard of customer care. Additionally, please include your experience of assisting vulnerable clients	10
Collation and Communication	Please explain your methods for the collation of case notes. Please explain how you will communicate with WBC/TRDC, prior to a decision being issued	10
Health Contacts	Use of the Council's Doctor: if you do not intend to use the Council's doctor, please explain your methods and plans to use an independent and list your health contacts	10
Quality and Performance	Please provide quality evidence and data. For example: the ratio of decision letters vs Court cases and number upheld	10

The criteria will be evaluated using the following scoring methodology:

Score	Rating	Criteria for Assessing Score
1	Unsatisfactory / Unacceptable	Does not meet any of the requirements
2	Poor	Falls far short of meeting the requirements
3	Very Weak	Falls significantly short of meeting the requirements
4	Weak	Falls moderately short of meeting the requirements
5	Acceptable	Appears to meet requirements but some inference needed where not fully demonstrated or evidenced
6	Satisfactory	Satisfactorily meets requirements and is supported by clear evidence
7	Good	Meets requirements and will bring some added value / benefit
8	Very Good	Exceeds requirements and will bring added value / benefit
9	Outstanding	Significantly exceeds requirements and will bring significant added value/ benefit
10	Exceptional	Submission significantly exceeding requirements in all respects and will bring very significant added value / benefit

The assessment of each criterion will be based on the scoring system tabulated above. The right is reserved to exclude any bidder who scores 3 or less in any criteria.

A Tender may be rejected if it is too high to be affordable. A Tender may be rejected if it is too low to be credible, but only after the Bidder has been given the opportunity to provide an explanation of the Tender or part of the Tender which the Councils believe to be too low.

The Council may seek the provision of two relevant references from other local authorities / public sector organisation or private sector business. These will be considered in the evaluation of the quality criteria. Bidders must provide suitable contact details.

Bidders may be invited for interview, in order to clarify any matters in the submission.

Terms of Payments

The terms of payment are contained within the terms and conditions and the Invitation to Tender.

The Council will make a payment of the agreed fee within 30 days of the completion of the review and a VAT (if VAT registered) invoice has been received.

Specification:

Companies should prepare quotations using the following information:
General price (split evaluation between two prices, i.e. 80/20)

An all-inclusive price per case should be quoted in and further an all-inclusive cost for court attendance/appearance

- Identify your process for carrying out reviews
- Measures to ensure a high standard of customer care, including vulnerable clients
- Evidence of relevant experience and qualification
- Rationale and case notes to be discussed, prior to a decision being issued
- Must use the Council Doctor or request permission to send for independent assessment (for decisions where health reasons are cited).
- Quality evidence and data. For example: the ratio of decision letters: Court case and number upheld.
- Provide financial information for the periods: 2018/2019; 2019/2020 and first 6 months

Variation of Specification: Where a supplier is offering to supply Services that vary in any respect from the SOR then the description of the service being offered must clearly identify those features that are not to the original quotation specification.

Summary Breakdown of Charges and Discounts: Suppliers must quote for the supply of services including any necessary training. Prices should include all costs and disbursements but exclude VAT. Any additional charges that might apply should be clearly listed separately.

Any available discounts should also be stated. All costs must be identified in the Pricing Schedule.

Appendix 1- Pricing Schedule

Please breakdown the prices into the stages of delivery (including, but not limited to survey design, fieldwork, quality control, data processing and reporting)

Standard pricing for review

Item	Description	Price £
A	Cost of staff time	
B	Cost for letters/correspondence	
C	Cost per face to face client interview	
D	All anticipated additional costs E1 E2 E3	
	TOTAL OF FIXED DELIVERED PRICE	

Non-standard costs - for Court appearance

Item	Description	Price £
A	Cost per court appearance	
B	Cost per witness statement	
C	Cost for letters/correspondence	
D	Cost per face to face client interview	
E	All anticipated additional costs E1 E2 E3	
	TOTAL OF FIXED DELIVERED PRICE	

Appendix 2- Legislation and Case Law

Housing Act 1996 Part VII: Homelessness (amended)

202 Right to request review of decision.

(1) An applicant has the right to request a review of—

(a) any decision of a local housing authority as to his eligibility for assistance,

(aa) any assessment of the applicant's case under section 184A;

(ab) any assistance given to the applicant under section 184B (duty to prevent homelessness);

(ac) any assistance given to the applicant under section 184C (duty to help to secure accommodation);

(b) any decision of a local housing authority as to what duty (if any) is owed to him under sections 190 to 193 (duties to persons found to be homeless or threatened with homelessness),

(ba) any decision of a local housing authority that any of the duties owed to an applicant under sections 184B, 184C, 190, 192, 192A and 193 have come to an end;

(c) any decision of a local housing authority to notify another authority under section 198(1) (referral of cases),

(d) any decision under section 198(5) whether the conditions are met for the referral of his case,

(e) any decision under section 200(3) or (4) (decision as to duty owed to applicant whose case is considered for referral or referred),

(f) any decision of a local housing authority as to the suitability of accommodation offered to him in discharge of their duty under any of the provisions mentioned in paragraph (b), (ba) or (e) or as to the suitability of accommodation offered to him as mentioned in section

193(7), or

(g) any decision of a local housing authority as to the suitability of accommodation offered to him by way of a private rented sector offer (within the meaning of section 193).

(1A) An applicant who is offered accommodation as mentioned in sections 184B, 184C, 190, 192A, 193(5), (7) (7AA) or 200 may under subsection (1)(f) or (as the case may be) (g) request a review of the suitability of the accommodation offered to him whether or not he has accepted the offer.

(1B) A review undertaken under subsection (1)(aa) shall extend to

(a) steps taken by the authority in carrying out the assessment;

(b) matters taken into account in connection with the assessment;

(c) any findings of fact made in the course of the assessment;

- (d) any decision which is adverse to the applicant's interests;
- (e) the outcome of the assessment, including any recommendation as to the nature of the authority's duties to the applicant; and
- (f) any failure to review the assessment under section 184A(4) or (5).

(1C) A review undertaken under subsection (1)(ab) and 1(ac) shall extend to:

- (a) the process followed by the authority in helping to prevent homelessness or in helping to secure the availability of accommodation (as the case may be);
- (b) the nature and extent of any assistance given, and whether such assistance was appropriate and adequate to the applicant's circumstances;
- (c) the outcome of the assistance given; and
- (d) the suitability of any accommodation which may be offered to him in the course of the performance of the authority's functions under sections 184B or 184C (as the case may be).

(2) There is no right to request a review of the decision reached on an earlier review.

(3) A request for review must be made before the end of the period of 21 days beginning with the day on which he is notified of the authority's decision or such longer period as the authority may in writing allow.

(4) In relation to a review under subsection (1) (aa), (ab) and (ac), a request for review must be made before the end of the period of 21 days beginning with the day on which he is notified as provided under sections 184A(5), 184B(8) or 184C(10) (as the case may be) or such longer period as the authority may in writing allow.

(5) On a request being duly made to them, the authority or authorities concerned shall review their decision.

203 Procedure on a review.

(1) The Secretary of State may make provision by regulations as to the procedure to be followed in connection with a review under section 202. Nothing in the following provisions affects the generality of this power.

(2) Provision may be made by regulations –

- (a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and
- (b) as to the circumstances in which the applicant is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

(3) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision on the review.

(4) If the decision is –

(a) to confirm the original decision on any issue against the interests of the applicant, or

(b) to confirm a previous decision –

(i) to notify another authority under section 198 (referral of cases), or

(ii) that the conditions are met for the referral of his case, they shall also notify him of the reasons for the decision.

(5) In any case they shall inform the applicant of his right to appeal to [the county court] on a point of law, and of the period within which such an appeal must be made (see section 204).

(6) Notice of the decision shall not be treated as given unless and until subsection

(5), and where applicable subsection (4), is complied with.

(7) Provision may be made by regulations as to the period within which the review must be carried out and notice given of the decision.

(8) Notice required to be given to a person under this section shall be given in writing and, if not received by him, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

204 Right of appeal to county court on point of law.

(1) If an applicant who has requested a review under section 202 –

(a) is dissatisfied with the decision on the review, or

(b) is not notified of the decision on the review within the time prescribed under section 203, he may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.

(2) An appeal must be brought within 21 days of his being notified of the decision or, as the case may be, of the date on which he should have been notified of a decision on review.

[(2A) The court may give permission for an appeal to be brought after the end of the period allowed by subsection (2), but only if it is satisfied –

(a) where permission is sought before the end of that period, that there is a good reason for the applicant to be unable to bring the appeal in time; or

(b) where permission is sought after that time, that there was a good reason for the applicant's failure to bring the appeal in time and for any delay in applying for permission.]¹

(3) On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit.

(4) Where the authority were under a duty under section 188, 190 or 200 to secure that accommodation is available for the applicant's occupation[, or had the power under section 195(8) to do so, they may]² secure that accommodation is so available –

(a) during the period for appealing under this section against the authority's decision, and

(b) if an appeal is brought, until the appeal (and any further appeal) is finally determined.

204A Section 204(4): appeals.

(1) This section applies where an applicant has the right to appeal to the county court against a local housing authority's decision on a review.

(2) If the applicant is dissatisfied with a decision by the authority –

(a) not to exercise their power under section 204(4) ('the section 204(4) power') in his case;

(b) to exercise that power for a limited period ending before the final determination by the county court of his appeal under s.204(1) ('the main appeal'); or

(c) to cease exercising that power before that time, he may appeal to the county court against the decision.

(3) An appeal under this section may not be brought after the final determination by the county court of the main appeal.

(4) On an appeal under this section the court –

(a) may order the authority to secure that accommodation is available for the applicant's occupation until the determination of the appeal (or such earlier time as the court may specify); and

(b) shall confirm or quash the decision appealed against, and in considering whether to confirm or quash the decision the court shall apply the principles applied by the High Court on an application for judicial review.

(5) If the court quashes the decision it may order the authority to exercise the section 204(4) power in the applicant's case for such period as may be specified in the order.

(6) An order under subsection (5) –

(a) may only be made if the court is satisfied that failure to exercise the section 204(4) power in accordance with the order would substantially prejudice the applicant's ability to pursue the main appeal;

(b) may not specify any period ending after the final determination by the county court of the main appeal.]

Source: The Homelessness Legislation; Crisis, 2016

Relevant Case Law;

(Mohammed) v Camden LBC [1997] 30 HLR 315

Panayioutou [2017] EWCA CIV 1624

Appendix 3 – General Terms

1. The framework agreement will be on the basis of a four year term with the ability for call-off contracts to extend for an additional two years by mutual consent.
2. The tender response should include the proposed charging structure based on the following:-
 - a. The Council will pay a fixed fee proposed by the reviewer for each review including any Mohammad letters
 - b. The cost of any Mohammad letters completed by the reviewer will be included in the review price
 - c. Payments will be made after the successful completion of each review within the stated time frame.
 - d. There will be no financial liability for any enquiries required with other parties as part of the review process. Expenses for the reviewers travel will not be chargeable to the Council.

- e. If approval is not given by the appropriate Council for additional costs these will not be paid to the reviewer.
 - f. If any extensions of time are required by the reviewer this must be alerted to the Council immediately who need to agree any time extensions requests and further the Council has the option of withdrawing the review from the reviewer if they are not completed within the specified time and part payment would be made up to the point of withdrawal for the work completed to that date.
3. The Council or the contractor may terminate the Agreement by serving three months written notice with effect from the date specified in such notice.
 4. The Councils reserve the right to conduct any reviews themselves and is not obliged to provide any work to the contractor.

Appendix 4 - Performance indicators

Indicator	Quarterly Target
Number of decision letters sent to the council within 50 calendar days	85%
Number of extensions requested with reasons	15%
Number of complaints upheld by the council	No more than 2 complaints

Timescales within the Specification

Day 1	Review request from the Requesting Party
Within 5 working days of Review request	Council to notify contractor of review request by this date, including sending background information
Within 2 working days of referral	Contractor to acknowledge receipt of review request to the Council
Within 50 calendar days of Review request	Contractor to send copy of decision letter to the Council to check and send out to the client
Within 2 calendar days of requesting an extension	Contractor to notify the Council
Within 2 working days of complaint receipt	Contractor to send copy of the complaint to the Council
Within 3 working days of Council request	Contractor provides information to facilitate complaint response by the Council