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**Meeting:** Social Care, Health and Housing Overview and Scrutiny Committee  
**Date:** 21 January 2013  
**Subject:** Tenant's Scrutiny Panel and Designated Persons and Tenant's Complaints Panel  
**Report of:** Cllr Mrs Carole Hegley , Executive Member for Social Care Health and Housing  
**Summary:** The report proposes the setting up and adoption of a Tenant's Scrutiny Panel and Designated Persons and Tenants Complaints Panel for the Council's Landlord Service as part of the new revised regulatory requirements for social housing providers, under the Localism Act 2011.

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**Advising Officer:** Director of Social Care, Health and Housing  
**Contact Officer:** Carol Rooker, Head of Housing Management  
**Public/Exempt:** Public  
**Wards Affected:** South of Central Bedfordshire  
**Function of:** Council

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

1. As a landlord, the Council is responsible for providing good quality homes and services to the Council's tenants. Many of these residents are vulnerable.

Tenant scrutiny will provide a means of ensuring that the Council has sound financial and service management and this will contribute to the Council providing value for money, and enabling the Council to successfully deliver its priorities.

### **Financial:**

2. The costs involved in developing and supporting the Tenants Scrutiny Panel and Complaints Panel can be covered within the existing Landlord Service Business Plan.

### **Legal:**

3. The Council, as part of the new revised regulatory framework for social housing providers, is expected to give tenants a wide range of opportunities to influence, and be involved, in the following areas:

- Formulating their landlord's housing related policies and priorities
- Making decisions about how housing related services are delivered, including setting service standards
- Scrutinising their landlord's performance and recommending how performance might be improved

The new Tenants Scrutiny Panel will provide the formal scrutiny role for tenants, who will then, if necessary, hold the Council to account for any concerns they have with the services that they receive.

The new Designated Persons and Tenants Complaints Panel will also ensure that the Council responds to the changes in the way complaints against social landlords are processed.

**Risk Management:**

4. There is a reputational risk to the Council if there are inadequate arrangements in place to ensure that tenants are supported in being able to hold the Council as their landlord to account.

There is also a risk of intervention by the Homes and Communities Agency (Regulation Committee) if they consider that the Council is not complying with the new regulatory arrangements, in terms of co-regulation.

There is a governance risk of the Panel failing to act in the best interests of the tenants and community. The above risks will be mitigated by the introduction of clear terms of reference and a robust Code of Conduct for the Tenants Scrutiny Panel and the mechanism for reporting the Panel's findings back to the Overview and Scrutiny Committee.

**Staffing (including Trades Unions):**

- 5 Not applicable.

**Equalities/Human Rights:**

6. The Council, as a public body, must act to eliminate unlawful discrimination, victimization and harassment against people on the grounds of race, religion or belief, age, sex, pregnancy and maternity, gender reassignment, sexual orientation and disability. Further, the duty requires the Council to advance equality of opportunity between different groups, and foster good relationships between different groups.

The new National Standard for Housing Providers - on Tenant Involvement and Empowerment – requires that the Council understands and responds to the diverse needs of tenants. The new Tenants Scrutiny Panel will assist in progress on meeting this aim.

The Panel's Terms of Reference refers to "committed to respecting the values of all members of the community it represents and will take active steps to ensure that it does not inadvertently discriminate on the grounds of any of the protected characteristics as defined by the Equality and Human Rights Commission".

Any report or recommendations that the Panel may produce will still be subject to an equalities analysis.

**Public Health**

- 7 Good quality housing and services have a positive impact on public health and well being.

**Community Safety:**

- 8 Not applicable.

**Sustainability:**

- 9 Not applicable.

**Procurement:**

- 10 Not applicable.

## **RECOMMENDATION(S):**

**The Committee is asked to recommend to the Executive that:-**

- 1. The terms of reference are agreed.**
- 2. A Tenant's Scrutiny Panel and a Designated Persons and Tenant's Complaints Panel are established and that the Adult Social Care, Health and Housing Complaints procedure is revised to include the role of Designated Persons, in respect of housing complaints.**
- 3. That both Panels become operational in April 2013.**
- 4. That the Tenant's Scrutiny Panel be invited to present their reports and findings to the Overview and Scrutiny Committee for consideration**

## **Background**

- 11 As part of the Government's new revised regulatory framework for social housing, housing providers are expected to support tenants in enabling them to monitor and shape the housing services that are provided, and to hold their landlords to account.
- 12 As part of this new requirement for co-regulation, the Council's tenants have been widely consulted on possible arrangements for Central Bedfordshire. Tenants have concluded that setting up a new formal Tenants Scrutiny Panel would ensure that tenants are at the heart of service delivery.
- 13 In order to prepare for these new arrangements, a small working group, with external consultancy support and including Councillors Turner and Mustoe, has been meeting on a regular basis, to prepare for this new role.
- 14 The Group has now completed the initial work in terms of agreeing the Panel's Terms of Reference, the required skills and experience of panel members, the recruitment process, and has now selected 5 Panel members to set up the first Tenant's Scrutiny Panel.
- 15 In addition to the new regulatory requirements, the Government is also introducing a number of changes in the way complaints against social landlords are processed.
- 16 At present, complaints from council tenants are referred to the Local Government Ombudsman but from April, tenant complaints will, instead, be referred to the Housing Ombudsman Service, and there is the creation of the role of Designated Person to support local resolution of complaints.

## **Activity and Structure of the Tenants Scrutiny Panel**

- 17 The small working group has recommended that the Tenant's Scrutiny Panel should:-
  - Work on behalf of tenants to ensure that that the Council delivers housing services of the highest standard to all, providing and independent view on all aspects of housing services;
  - Ensure that the Council complies with the new regulatory framework in the way it delivers services by monitoring and challenging standards and performance;

- Ensure that the Council provides a high quality housing service that places tenants at the heart of the organisation.

18 In order to deliver the above objectives, The Tenant's Scrutiny Panel will:

- Gather data and other information to enable housing services to be scrutinised.
- Examine data and other information and make recommendations for service improvement.
- Scrutinise the efficiency of strategies, policies and operations.
- Report recommendations to Councillors and Senior Management and the Overview and Scrutiny Committee where the panel considers it appropriate.
- Agree and monitor action plans.
- Include a maximum of 12 members, and anyone living in a council property can apply to be a member of the panel.
- Membership will last for 3 years, before they will have to reapply
- If the panel numbers fall below 8, then recruitment will be recommended.
- Members must abide by a Code of Conduct

19 The Tenant's Scrutiny Panel will develop its own programme of work, considering all areas of housing services, and will consider various sources of evidence to assist in identifying and planning its work. It will produce reports, work with the Council to publish the results, and will prepare regular reports for consideration by the Overview and Scrutiny Committee.

See Appendix A - for proposed Terms of Reference and Appendix B for Governance arrangements.

20 The Panel members themselves are to be unpaid, although reasonable expenses will be paid.

21 The Landlord Service, however, will have to recruit dedicated administrative support to ensure that the Panel are supported to undertake their work.

22 The Panel will now begin a more intensive training programme and will be offered support to commence a project as a pilot before they become fully operational in April.

23 The Panel will fit into the current structures of tenant involvement as completely independent from current forums, but will refer their reports and recommendations through to this Committee. See appendix A

### **Designated Persons and Tenants Complaints Panel**

24 At present, council tenant's complaints are referred to the Local Government Ombudsman. As from April 2013, all social housing complaints will now be dealt with by the Housing Ombudsman Service.

(Complaints about access to Housing and the Landlord Service will both be considered).

25 The following people (designated persons) can refer complaints to the Ombudsman:

- A Member of the House of Commons

- All Central Bedfordshire Members
- A designated Tenant Panel

- 26 The introduction of the Designated Persons role is linked to the changing role of the Housing Ombudsman, which acknowledges that complaints are best resolved as soon as possible through the efforts of the Landlord.
- 27 The focus for the Housing Ombudsman will be on helping parties to reach resolution themselves, through the existing complaints procedure with the Designated Persons undertaking a role in taking the right steps to resolve disputes.
- 28 Complainants will have the opportunity to approach a Designated Person if they are not satisfied with the Council's final response to their complaint. The Designated Person may then act on the complainant's behalf, by for example requesting a service review of the outcome of the complaint or by referring the complaint to the Housing Ombudsman if they consider that the outcome is unreasonable or unfair.
- 29 The Housing Ombudsman will not consider complaints which in his/her opinion:
- Are made prior to having exhausted the Council's complaints process.
  - Are made within 8 weeks of having exhausted the Council's complaints procedure - unless a designated person has refused to refer the complaint to the Ombudsman or has agreed to the complaint being brought to the Ombudsman.
- 30 In addition, the Ombudsman may refer cases to the Designated Person if he/she considers that it may increase the chance of local resolution.
- 31 Although consideration was given to having the Complaints Panel made up of the new Tenant's Scrutiny Panel, on balance it has been suggested that a separate Panel with clear role distinctions is the preferred way forward. The Panel members will be provided with a comprehensive training on their role, as this will be essential to ensure a consistent, impartial and balanced approach to the process.
- 32 It is proposed that the Panel would meet when a complaint is referred to it by a complainant who has exhausted the internal procedure. The Panel members would comprise of 3 members so that there is a manageable number of views to take into account, and decisions can be made based on the majority.
- 33 The Panels would be supported, organised and managed by the Customer Relations Team, who are there to ensure that the Panel members are able to consider the complaint and ensure that the complainant has a fair hearing.
- 34 The Customer Relations Team will also advise on the how the Landlord Services processes works and what the Regulations say about Housing complaints and the escalation process. The Panel will consider the complaint and will determine their recommendations, with the Chair being responsible for ensuring the process is fair.

- 35 The Panel would hear from both the Housing Service and the complainant, (and the investigator will also be present, if the complaint has been investigated by an external investigator). The complainant would be asked to focus on their reasons for their ongoing dissatisfaction and the resolution that they would like to see taking place. They would also hear representations from the Assistant Director, who would have been the officer responsible for the decision to take no further action on the complaint. Following the representations, the Panel would deliberate in private.
- 36 The Panel would need to consider whether the complaint has been handled thoroughly and fairly, and would have the option of referring the case back to the Assistant Director recommending that further work be undertaken to seek a remedy or further investigation, or the proposed remedy be reconsidered.
- 37 As the level of complaints is relatively low, there is a risk of the Panel “losing touch” if they only meet a few times a year. To mitigate this, it is proposed that the role of a “critical friend” be developed and that quarterly meetings be held with the Panel to review the nature and outcome of complaints and any learning opportunities to improve service delivery.
- 38 Recruitment to the Tenant’s Panel has not yet commenced, but it is possible that some tenants may be more interested in this role, as there is only expected to be a minimal time implication. Members of existing Tenant Forums such as the Way Forward Panel and Sheltered Tenants Action Group may also be interested in joining this new Panel. (Existing members of these groups are precluded from joining the Tenant’s Scrutiny Panel unless they resign their previous role - to ensure true scrutiny).
- 39 Currently, Members of Parliament and Councillors both play a role in representing local constituents with concerns regarding council services. The role of Designated Person will be in addition to this and it is possible that Members of Parliament hard pressed for time, or without an in depth knowledge of the area or topic may fast track the complaint directly to the Housing Ombudsman, losing the opportunity for a local resolution.
- 40 It is proposed that early communications with local Members of Parliament and Council members will be put in place to explain the new process that will operate within the Landlord Service.
- 41 There are still a small number of issues to resolve in terms of how the new Scheme will work, but expert advice is being sought so that the scheme will be ready for operation by April 2013. As part of the preparations, the Adult Social Care, Health and Housing complaints procedure will also need to be amended to incorporate the Tenants Panel, and their role in the process. There will also be a new procedure for the Tenants Panel members on handling complaints.
- 42 In addition, as part of the preparations for the new Scheme, a comprehensive communications plan will also be drafted, to ensure that tenants, Members of Parliament and Members are all aware of the new arrangements.

### **Conclusion and Next Steps**

- 43 As recruitment to the Tenant’s Scrutiny Panel is almost complete, it is now necessary to get approval from the Executive for the new Panel to be properly constituted and for it to be recognised as the formal scrutiny arrangement undertaken by tenants.

- 44 The Working Group have worked well together to develop these proposals, and are very clear that the Tenant's Scrutiny Panel will work on behalf of the Council's tenants to ensure that the Council delivers housing services of the highest standard to all, by providing an independent view on all aspects of housing services.
- 45 This joint approach to service delivery and overview is very much in line with the new co-regulatory framework for social housing. Regulatory intervention is to be regarded as the back stop arrangements with self regulation to be the main means of oversight.
- 46 The Government's focus on regulation has developed to one that is less about inspection and auditing of social housing, with a system where the onus is placed on residents to identify issues of concern. The proposed new Tenants Panel for complaints further complements this approach.
- 47 This new tenant-led scrutiny role provides a formal route for tenants to raise these concerns with the Landlord Service. The Overview and Scrutiny Committee can also ask the Panel to investigate any issue if thought appropriate, in a similar way to a Task and Finish Group arrangement.
- 48 The Tenant's Scrutiny Panel will now commence a training programme in order for them to start this important, exciting and challenging role on behalf of tenants. The Customer Relations Team will also begin their arrangements, alongside Landlord Service staff to prepare for the new complaints process and Tenants Panel recruitment.
- 49 Once the Tenants Scrutiny Panel is up and running and has completed their first project, the Panel will be invited to report on their findings to the Overview and Scrutiny Committee.

**Appendix A -** Terms of Reference of Tenants Scrutiny Panel.

**Appendix B -** How the Panel fits into current governance arrangements.