
Meeting: Executive
Date: 18 March 2013
Subject: Establishing a Tenants' Scrutiny Panel and Tenants' Complaints Panel
Report of: Cllr Carole Hegley, Executive Member for Social Care, Health & Housing
Summary: The report proposes the setting up and adoption of a Tenants Scrutiny Panel and a Tenants Complaints Panel to act as a designated person for the Council's Landlord Service as part of the new revised regulatory requirements for social housing providers under the Localism Act 2011.

Advising Officer: Julie Ogle, 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
Key Decision Yes
**Reason for urgency/
exemption from call-in
(if appropriate)** N/A

CORPORATE IMPLICATIONS

Council Priorities:

Promote health and wellbeing and protecting the vulnerable.

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.

Value for money- freezing council tax.

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:

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

Legal:

2. The Council, as part of the new revised regulatory framework for social housing providers, contained in the Localism Act 2011, is expected to give tenants a wide range of opportunities to influence, and be involved in, 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 Tenants Complaints Panel will ensure that the Council responds to the changes in the way complaints against social landlords are to be processed.

Risk Management:

3. 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 proposal for the mechanism for reporting the Panel's findings back to the Overview and Scrutiny Committee for their consideration.

Staffing (including Trades Unions):

4. Not applicable.

Equalities/Human Rights:

5. 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.

6. The 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.

Overview and Scrutiny:

11. This matter has been considered by Overview and Scrutiny on the 29 January 2013, who endorsed the approach taken. They sought clarity on the number of Scrutiny Panel members which would comprise a quorum (50% of the total Panel members).

The Chairman of the Committee intends to meet with the Chairman of the Tenant Scrutiny Panel (once appointed) to discuss the relationship between the two bodies and how information could be shared in an effective and timely manner.

RECOMMENDATIONS:

The Executive is asked to:

1. **approve the establishment of a Tenants Scrutiny Panel with terms of reference as set out in Appendix A;**
2. **approve the appointment of a Tenants Complaints Panel; and**
3. **agree that the Social Care, Health and Housing Complaints procedure be revised to include, in respect of the Tenants Complaints Panel, the role of a "designated person" in respect of housing complaints.**

Reason for Recommendations: So the Landlord Service can meet the new regulatory requirements as a social landlord, by ensuring that tenants have opportunities to monitor and shape their housing services.

In addition, the Landlord Service must also respond to the changes in the way that tenants' complaints must be dealt with at a local level, and to prepare for the changes in terms of the Housing Ombudsman Service remit.

The Local Government Ombudsman service will no longer be responsible for dealing with housing complaints about the Council's landlord function.

Executive Summary

12. As part of the new requirement for co-regulation for social landlords, the Council's tenants have been widely consulted on possible arrangements for Central Bedfordshire. Tenants with the support of the Social Care, Health and Housing Overview and Scrutiny Committee have concluded that setting up a new formal Tenants Scrutiny Panel would ensure that tenants are at the heart of service delivery.
13. In addition to the new regulatory requirements in respect of co-regulation, the Government is also introducing a number of changes in the way complaints against social landlords are processed.
14. At present complaints from council tenants are referred to the Local Government Ombudsman, but from April 2013, tenants' 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

15. As part of the preparations for the new regulatory requirements, a small working group, including Councillor Andrew Turner and Councillor Marion Mustoe, has been meeting to suggest new arrangements for tenant scrutiny in Central Bedfordshire. The group have proposed the setting up of a new Tenants Scrutiny Panel.
16. The Tenants Scrutiny Panel will:
 - Work on behalf of tenants to ensure that the Council delivers housing services of the highest standard to all, providing an 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.

17. The Tenants 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. The Panel has expressed its wish to work with the Council in terms of its work programme, so the Chairman of the Social Care, Health and Housing Overview and Scrutiny Committee is keen to meet with the new Chair of the Tenants Scrutiny Panel to discuss the relationship between the two.
19. As the Tenants Scrutiny model is an evolving role, it is proposed that the relationship between the Tenants Scrutiny Panel and the Overview and Scrutiny Committee be reviewed once the Panel has been in existence for at least 6 months and has completed its first enquiry.
20. The Tenants Scrutiny Panel's proposed terms of reference and Governance arrangements are attached at Appendix A and B respectively.
21. Recruitment to the new Tenants Scrutiny Panel is ongoing, although a small group of tenants have already been recruited, and are now undergoing a formal training programme so that they can undertake their first enquiry early in the new financial year.
22. This is an exciting time for the Landlord Service and it is important that the new Panel members are supported to undertake this new and valuable role to ensure that the housing service provides the best services it can to its residents, and that there are firm arrangements in place to conform with the new requirements for co-regulation.

Designated Persons and Tenants Complaints Panel

23. Currently, council tenants' complaints are referred to the Local Government Ombudsman, but as from April 2013, all social housing complaints will now be dealt with by the Housing Ombudsman Service.
24. The following people (designated persons) can refer complaints to the Housing Ombudsman:
 - A member of the House of Commons
 - A Central Bedfordshire Council Member
 - A designated Tenant Panel
25. The introduction of the designated person's 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.
26. The focus for the Housing Ombudsman will be on helping parties to reach resolution themselves through existing complaints procedures with the designated persons undertaking a role in taking the right steps to resolve disputes.

27. 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.
28. The Housing Ombudsman will not consider complaints which in his/her opinion:
 - are made prior to having exhausted the Council's complaints process; and
 - 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.
29. Although consideration was given to having the Tenants Complaints Panel made up of the new Tenants Scrutiny Panel, on balance it has been suggested that a separate Panel with clear role distinctions is the preferred way forward.
30. The Panel would meet when a complaint is referred to it by a complainant who has exhausted the Council's complaint's procedure. The Panel would comprise of 3 members so that there are a manageable number of views to take into account and decisions can be made based on the majority. The Panel would decide what action, if any, to take to assist in resolution of the complaint.
31. If the Panel undertake to assist in resolution they will set up a panel meeting to review the complaint taking into account representations from the complainant and the Council. The administration of the Panel meeting would be supported by the Corporate Customer Relations Team.
32. As the level of complaints is expected to be 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 support them to review and refresh their role and skills.
33. Currently Members of Parliament and Central Bedfordshire Council Members 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.
34. It is proposed that early communication with local Members of Parliament and Central Bedfordshire Council Members will be put in place to explain the new process that will operate within Landlord Services, together with a comprehensive communications plan to let other stakeholders (predominately tenants) also know of the new arrangements.

Conclusion and Next Steps

35. As recruitment to the new Tenants Scrutiny Panel has already identified a number of tenants willing to take up this new role, training is underway to support the Panel in completing their first enquiry. It is therefore important that Executive now formally recognise these new scrutiny arrangements that will be undertaken by tenants as part of the new requirements for co-regulation of the Landlord Service.

36. This new joint approach to service delivery and overview is very much in line with the new co-regulatory framework for social housing, with regulatory intervention to be regarded as the backstop arrangements with self regulation to be the main means of oversight.

Appendices:

Appendix A – Tenants Scrutiny Panel- Terms of Reference

Appendix B – Governance Arrangements

Background Papers: None