

Forest Heath District Council

(This report is a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

Report of the Cabinet Member for Planning, Housing and Transport

CABINET

3 SEPTEMBER 2013

CAB13/099

DESIGNATED PERSONS (Key Decision Reference: SEP13/03)

1. Summary and reasons for recommendation(s)

- 1.1 This report provides information on the new arrangements which came into effect on 1 April 2013, whereby all tenant complaints made against their Registered Providers will need be considered by a Designated Person, once the Registered Providers own internal complaints procedure have been exhausted, before consideration by the Housing Ombudsman.
- 1.2 A 'designated person' can be any Member of Parliament (MP), a councillor from the local housing authority or can be a designated tenant panel.
- 1.3 Although a complainant will be able to ask any councillor to act as a designated person to help them resolve their complaint, it may be helpful for the Council to establish a more structured approach whereby a number of Councillors with a broad knowledge of housing issues are identified as being willing to act as designated persons.

2. Recommendation(s)

- 2.1 **That the Cabinet note the implications of the report and the additional responsibility placed upon local councillors with regard to the role of Designated Persons.**
- 2.2 **That Cabinet consider whether it wishes to nominate the Cabinet Member for Planning, Housing and Transport, and identify up to three further Members to act as Designated Persons on behalf of the Council, in progressing housing complaints to the Housing Ombudsman Service.**

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3. How will the recommendations help us meet our strategic priorities?

3.1 The recommendation(s) meet the following, as contained within the Corporate Plan:

- (a) Forest Heath Corporate Priority: *'Help manage the districts existing housing stock'*

4. Key issues

- 4.1 From 1 April 2013, a tenant or lease holder who has exhausted their Registered Providers internal complaints procedure and remains unhappy with the response to their complaint can ask a 'designated person' to refer their complaint to the new Office of the Housing Ombudsman. This referral must be made in writing, either by letter, email or via the Housing Ombudsman's website.
- 4.2 A 'designated person' can be any Member of Parliament (MP), a councillor from the local housing authority or can be a designated tenant panel i.e. a group of tenants which is recognised by a Registered Provider for the purpose of referring complaints against the Registered Provider. The designated person will consider a complaint only once the Registered Providers own internal complaints procedure has been exhausted and will be expected to decide whether or not to refer the complaint to the Housing Ombudsman.
- 4.3 If the tenant does not want to have their complaint considered by a 'designated person' they can refer their complaint directly to the Housing Ombudsman if they are prepared to wait a period of eight weeks from the date on which they completed the Registered Providers complaints procedure. In addition, if a 'designated person' refuses to refer the complaint to the Housing Ombudsman and puts their decision in writing, then the Housing Ombudsman will consider the complaint without requiring a referral from a 'designated person' or needing to wait for eight weeks.
- 4.4 However, the Housing Ombudsman has made it clear that complaints should be resolved as soon as possible and through the efforts of the landlord. The Ombudsman will, therefore, focus on helping parties to reach a resolution themselves through the available local procedures, namely the landlord's own internal complaints procedures and the designated person. Instead of focusing advice on how to complete the complaints process, the Ombudsman will advise parties on how to take steps to resolve a particular dispute.
- 4.5 The Ombudsman will encourage positive relationships between landlords, tenants, leaseholders and designated persons, and if necessary they will refer cases to designated persons if they consider this will increase the chance of achieving local resolution. The Ombudsman has made it clear that they believe that some complaints are better dealt with by the designated person rather than by their service.
- 4.6 The Ombudsman will not have any jurisdiction over designated persons, their decisions or processes, although he or she will feed back on referrals from designated persons to encourage good practice in complaints handling.

Designated person – issues for consideration

- 4.7 The role of the 'designated person' could well be a challenging one and could be very time-consuming, although at this stage there is no information available to be able to access the number of likely cases that will come forward. In addition, if they are to be effective those carrying out this role will require not only a good knowledge of housing, but also skills in complaints handling and dispute resolution. The Council will, therefore, need to consider what information, advice and training it might wish to offer to those acting as designated persons so that they are fully aware of their role and responsibilities, while at the same time recognising their independence.
- 4.8 Although a complainant will be able to ask any councillor to act as a designated person to help them resolve their complaint, it may be helpful for the Council to establish a more structured approach whereby a number of councillors with a broad knowledge of housing issues are identified as being willing to act as designated persons, with tenants being encouraged to refer their complaint to these councillors. This would enable the Council to ensure that these councillors are trained in complaints handling and resolution. It is understood that a number of local authorities have decided to take this approach.
- 4.9 However, it would still be necessary to make clear to complainants that they have the option to go to any councillor, to any MP (within or outside Forest Heath), to a tenants panel or indeed wait eight weeks to refer their complaint directly to Housing Ombudsman having exhausted the Registered Providers own complaints procedure.
- 4.10 An alternative approach would be to assume that a complainant is more likely to approach their own ward councillor to act as their designated person, in which case training could be offered to councillors on a case by case basis.
- 4.11 The Housing Ombudsman is currently developing some Dispute Resolution Principles for landlords, tenants, and designated persons to serve as guidance on the necessary culture, processes and skills needed to resolve effectively disputes between landlords and tenants. It is suggested that these principles, once agreed, could form the basis of any training provided to Councillors and designated tenants complaints panel members on the new arrangements.

5. Other options considered

- 5.1 The Housing Ombudsman will not consider any complaints relating to the allocation of Social Housing through the Council's own CBL scheme. These type of complaints would initially be delete with through the Council's own internal complaints procedures and then if still not resolved, through the Local Government Ombudsman.

6. Community impact

6.1 Crime and disorder impact *(including Section 17 of the Crime and Disorder Act 1998)*

- 6.1.1 Some complaints may relate to Anti Social Behaviour or disorder being caused by specific tenants and the support of the appropriate Council officers may be required.

6.2 Diversity and equality impact *(including the findings of the Equality Impact Assessment)*

6.2.1 Housing complaints can highlight areas where improvements or changes need to be made to ensure that the Council meets the needs of vulnerable tenants, and that no tenant is disadvantaged in accessing the Council’s services.

6.3 Sustainability impact *(including completing a Sustainability Impact Assessment)*

6.3.1 None

6.4 Other impact *(any other impacts affecting this report)*

6.4.1 None.

7. Consultation *(what consultation has been undertaken, and what were the outcomes?)*

7.1 Discussions have taken place with both Havebury and Flagship Housing, the two largest Registered Providers in West Suffolk. Both organisations have confirmed that they are happy to work with the Councils in providing training for Members on their existing complaints procedures.

7.2 Both providers have indicated that it is their intention to establish ‘designated tenant panels’ to assist in the process.

8. Financial and resource implications *(including asset management implications)*

8.1 There are no direct significant resource implications arising from this report, there will be some costs associated with providing training to those Members identified as Designated Persons, but this can be met from within existing resources.

9. Risk/opportunity assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Local Councillors receive requests to act as Designated Persons, without sufficient knowledge and support to perform the role	Medium	A small group of Councillors are provided with specialist training and support to act effectively in the role on behalf of all councillors	Low
Local Councillors are inundated with requests to act as Designated Persons	Medium	The Council works with and supports RPs to establish independent local tenants panels, with tenants being encouraged to refer their complaint to them in the first instance	Low

10. Legal and policy implications

- 10.1 The Localism Act 2011 creates a single service for investigating complaints about Registered Providers, by transferring powers in relation to housing matters from the Local Government Ombudsman to the Housing Ombudsman.
- 10.2 Local Councillors are defined in the Act as one of the individuals who can act as a designated person to investigate complaints from tenants before they are considered by the Housing Ombudsman.

11. Ward(s) affected

- 11.1 All.

12. Background papers

- 12.1 None

13. Documents attached

- 13.1 Appendix - Housing Ombudsman Service – Information Sheet