

**To: Council**

**On: 20 April 2017**

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**Report by: Director of Finance and Resources**

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**Heading: Governance Issues – Appeals Panels**

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## **1. Summary**

- 1.1. The purpose of this report is to consider proposed changes to the Council's governance arrangements as they relate to the Social Work (Complaints Review) and Non-domestic Rates Appeals Panels.

### **Social Work (Complaints Review) Appeals Panel**

- 1.2. The Public Services Reform (Social Work Complaints Procedure) (Scotland) Order 2016, which came into force on 1 April 2017, abolishes the existing social work complaints process set out in the Social Work (Scotland) Act 1968 and the Social Work (Representations Procedure) (Scotland) Directions 1996 which require that, where a complainer is not satisfied with the response received from the Council in respect of their complaint concerning certain social work matters, they are able to refer the matter to a complaints review committee (CRC). This Council, as part of its decision-making structure, established the CRC as the Social Work (Complaints Review) Appeals Panel, which comprises three independent lay members drawn from a pool of volunteers.

### **Non-domestic Rates Appeals Panel**

- 1.3 The Council, also as part of its decision-making structure, has established the Non-domestic Rates Appeals Panel, the remit of which is to determine appeals against the application of the Council's policy relating to the discretionary relief of rates; and to determine requests from sheriff officers for instructions to proceed with warrant sales relative to the recovery of non-domestic rates.
- 1.4 It is likely that the Council may receive appeals in terms of Section 238 of the Local Government (Scotland) Act 1947 which allows an appeal in respect of rates "improperly charged". Such appeals require to be heard by the rating authority or a committee thereof and cannot therefore be delegated to

officers. It is proposed therefore that the remit of the Appeals Panel be expanded to include appeals under this legislation.

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## **2. Recommendations**

- 2.1 That it be noted that the existing social work complaints process will be abolished with effect from 1 April 2017 and that social work complaints will be dealt with in terms of the Model Complaints Handling Procedure for Social Work Services in Scotland.
  - 2.2 That it be noted that complaints that are still 'live' prior to 31 March 2017 will still require to be considered by the Social Work (Complaints Review) Appeals Panel.
  - 2.3 That the appointments of the existing lay members of the Social Work (Complaints Review) Appeals Panel be extended, should they still wish to participate, until complaints that are still 'live' prior to 31 March 2017 have been dealt with;
  - 2.4 That the Council's decision making structure be revised to remove the Social Work (Complaints Review) Appeals Panel once complaints that are still 'live' prior to 31 March 2017 have been dealt with;
  - 2.5 That the remit of the Non-domestic Rates Appeals Panel be expanded to include appeals under section 238 of the Local Government (Scotland) Act 1947 and;
  - 2.6 That the attached procedures for consideration of such appeals be approved.
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## **3 Background**

### **3.1 Social Work Complaints Review Appeals Panel**

As detailed in paragraph 1.1 above, The Public Services Reform (Social Work Complaints Procedure) (Scotland) Order 2016, which comes into force on 1 April 2017, abolishes the existing social work complaints process set out in the Social Work (Scotland) Act 1968 and the Social Work (Representations Procedure) (Scotland) Directions 1996.

- 3.2 The Council has, as part of its decision-making structure, the Social Work (Complaints Review) Appeals Panel comprised of independent lay members.
- 3.3 With effect from 1 April 2017, matters previously dealt with by this Appeals Panel will be considered in terms of the Model Complaints Handling Procedure (CHP) for Social Work Services in Scotland as developed by the Scottish Public Services Ombudsman (SPSO) in partnership with local authority and health and social care officers together with representatives from the Scottish Government and the third sector.
- 3.4 There will be a period of overlap between the two systems. Complaints that are 'live' with local authorities on 1 April 2017 (i.e. made to them up to and

including 31 March 2017) will complete the existing process that ultimately culminates in a CRC within the local authority. This means that local authorities will still need to be able to hold CRCs for some time after 1 April 2017. The SPSO will not be taking on the management or the handling of the existing complaints to be progressed to CRCs within the local authority. The SPSO's extended role will only apply where the original complaint is made to the local authority on or after 1 April 2017.

- 3.5 The appointments of the existing members of the Social Work Complaints Review Appeals Panel do not extend beyond the local government elections on 4 May 2017. It is proposed that, should they still wish to participate, the existing members, as detailed in the appendix to this report, be reappointed to deal with any complaints received prior to 31 March 2017 and until such complaints have been dealt with.
- 3.6 The SPSO indicates that this alignment of procedures will enable organisations to handle complaints flexibly, reduce the number of conflicting complaints procedures currently in operation and improve services to the public by ensuring that they receive a joined up response to all complaints wherever possible.
- 3.7 The Order also contains provisions to allow the SPSO to consider the professional judgement exercised on behalf of local authorities and allows for the sharing of information between the SPSO, the Care Inspectorate and the Scottish Social Services Council when appropriate.
- 3.8 **Non-domestic Rates Appeals Panel**  
  
As detailed in paragraph 1.4 above, Section 238 of the Local Government (Scotland) Act 1947 allows appeals to the rating authority or committee thereof in respect of rates "improperly charged".
- 3.9 This type of appeal deals with the liability of the rates itself rather than the way the Council has interpreted any discretionary regulations. Therefore the Non-domestic Rates Appeals Panel would be unable to hear an appeal under section 238 with the remit it currently has.
- 3.10 To deal with any appeals which may be received in terms of section 238, it is proposed therefore that, rather than establishing a separate appeals panel, the remit of the existing Non-domestic Rates Appeals Panel is expanded to take account of this legislation.

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## **Implications of this report**

1. **Financial Implications** – none
2. **HR and Organisational Development Implications** – none
3. **Community Plan/Council Plan Implications** – none
4. **Legal Implications** – as detailed in the report
5. **Property/Assets Implications** – none

**6. Information Technology Implications – none**

**7. Equality and Human Rights Implications**

- (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

**8. Health and Safety Implications – none**

**9. Procurement Implications – none**

**10. Risk Implications – none**

**11. Privacy Impact – none**

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**List of Background Papers – none**

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**Author:** Lilian Belshaw, Democratic Services Manager, 0141 618 7112

## Non-domestic Rates Appeals Panel

### Procedure for Appeals in terms of Section 238 of the Local Government (Scotland) Act 1947

Renfrewshire Council, as rating authority in terms of Section 238 for the area of Renfrewshire, has delegated to the Non-domestic Rates Appeals Panel power to hear and determine appeals lodged in terms of this Section.

- 1 The Head of Corporate Governance, following receipt in writing requesting an appeal hearing, shall give notification of the date fixed therefore. That notification shall be given not less than 21 days before the date of the hearing.
- 2 The appellant shall send to the Head of Corporate Governance and to the rating authority, to reach both parties not less than ten days before the date fixed for the hearing, details of any representations he/she wishes to make in support of his or her contention that, in respect of the rates claimed from him/her, he/she is being improperly charged.
- 3 The rating authority shall send to the Head of Corporate Governance and to the appellant, to reach both parties not less than ten days before the date fixed for the hearing, details of any representations he/she wishes to make in relation to the rates claimed from the appellant.
- 4 At the appeal hearing, the procedure shall, unless altered at the appeal hearing with the consent of the chair, be as follows:
  - a. There may be present at all times, the appellant, his/her representative and the respondent and their representative.
  - b. Advisers to either the appellant or rating authority's sides may be allowed to attend the hearing provided the Head of Corporate Governance has advance notice.
  - c. The Chair will make his/her opening remarks, introducing those present and ensuring that the appellant and the rating authority understand the procedure at the meeting;
  - d. The appellant or the appellant's representative will then be invited to present their case in the form of a statement and may call one or more witnesses to speak to any material fact;
  - e. The rating authority or the rating authority's representative and any member of the Appeals Panel may ask questions of the appellant or the appellant's representative, and of any witnesses;
  - f. Thereafter the rating authority or the rating authority's representative will be invited to present their case in the form of a statement and may call one or more witnesses to speak to any material fact;
  - g. The appellant or the appellant's representative and any member of the Appeals Panel may ask questions of the rating authority or the rating authority's representatives, and of any witnesses;
  - h. Where the Chair considers that information to be elicited from any witnesses is not relevant to the proceedings or relates solely to matters which do not constitute material facts or that any questioning or any address either does not relate to a material fact or

would lead to undue repetition or elaboration, the Chair may order that such witness be not heard or may disallow such questioning or address;

- i. No document with the exception of the information referred to and sent in terms of paragraphs (2) and (3) above, may be submitted at the hearing to support a party's submissions without the specific consent of the Chair, which consent will be withheld if, in view of the Chair, the party not submitting the same is prejudiced thereby, and if granted, may be granted subject to conditions relating to the inspection of the relevant document by any party to the hearing not submitting the same and the affording of facilities to any party not submitting the same to take or obtain copies thereof;
- j. After the conclusion of evidence and questioning the appellant, or his/her representative, followed by the rating authority, or his or her representative, will be given the opportunity to summarise their cases, introducing no new material.
- k. The appellant and the rating authority and their respective representatives shall then withdraw.
- l. The Appeals Panel shall, thereafter consider the matter and determine the appeal and the Head of Corporate Governance shall notify, in writing, both parties of the Appeals Panel's determination within 14 days of the date of the hearing.