



HOUSING SCRUTINY SUB-COMMITTEE

MINUTES of the OPEN section of the meeting of the HOUSING SCRUTINY SUB-COMMITTEE held on 2nd SEPTEMBER 2003 at 7.00 P.M. at the Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Anne YATES (Chair)
Councillor Fiona COLLEY (Vice-Chair)
Councillors Jonathan HUNT, Dr Abdur-Rahman OLAYIWOLA, and
Charlie SMITH

OFFICER Glen Egan – Assistant Borough Solicitor
SUPPORT: Lucas Lundgren – Scrutiny Team
Harry Marshall – Divisional Housing Manager
Marian Nash – Strategic Project Manager [Housing]

ALSO Tunde Akinyooye – Crown House Neighbourhood Manager
PRESENT:

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Abdul Mohamed.

CONFIRMATION OF VOTING MEMBERS

The Members listed as being present were confirmed as the Voting Members.

NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMED URGENT

The Chair agreed to accept the following items which were not available for circulation with the main Agenda, i.e.

- Item 7: BVR Housing Management: Support for Resident Involvement & Tenant Fund
- Summary of Member concerns and issues arising from first session
 - Executive Summary of the Final Consultation Report arising from the Housing Management BVR Support for Resident Involvement and Tenant Fund – visioning workshop
- Item 8: Pre-Scrutiny: Review of Secure Tenancy Agreement
- Draft Project Brief
 - Covering Report to Executive [9/9/03]
 - Appendix 2 to Executive Report [9/9/03] – Summary of Neighbourhood Forum Views on proposals for review
 - Conditions of Tenancy – table showing current and proposed clause

changes
Item 9: Housing Scrutiny Sub-Committee Forthcoming Business 2003/04

DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were no disclosures of interests made nor dispensations notified.

RECORDING OF MEMBERS' VOTES

Council Procedure Rule 1.17(5) allows a Member to record her/his vote in respect of any motions and amendments. Such requests are detailed in the following Minutes. Should a Member's vote be recorded in respect to an amendment, a copy of the amendment may be found in the Minute File and is available for public inspection.

The Sub-Committee considered the items set out on the agenda, a copy of which has been incorporated in the Minute File. Each of the following paragraphs relates to the item bearing the same number on the agenda.

MINUTES

RESOLVED: The Minutes of the meeting held on 2nd September 2003 were agreed as a correct record of the proceedings.

7. BEST VALUE REVIEW [BVR] OF HOUSING MANAGEMENT: SUPPORT FOR RESIDENT INVOLVEMENT & THE TENANT FUND – DRAFT VISION DOCUMENT [SESSION TWO] (see pages 115-135)

A copy of the Executive Summary of the Final Consultation Report arising from the Housing Management BVR Support for Resident Involvement and Tenant Fund – visioning workshop was circulated to those present.

Marian Nash explained that since the last meeting of the Sub-Committee a decision had been taken that the Executive would not now consider this item until Tenant Council had discussed the proposals and agreed its response to the BVR draft vision document. To this end a special meeting [closed to officers] of Tenant Council would take place on 15th September 2003, and the agreed response would be circulated to TRAs and NHOs for information. It was intended that much of the detail would be considered in conjunction with tenants. After the special Tenant Council meeting a cross-party Working Party would be formed. As a consequence of this the Executive would be unlikely to consider the matter January 2004.

In respect of the proposed new funding arrangements for the T&RAs, the Executive would retain overall control. The Tenant Fund Management Committee would agree the principles for the budget, for onwards transmission to TC and the Executive for ratification. No previous Executive had ever disagreed with recommendations put forward, however. Once the overall budget had been agreed, all individual applications meeting the agreed criteria would be agreed, with only non-standard applications being considered by the TFMC [such applications would not require Executive ratification, however]. are taken locally. The Legal Officer confirmed that decisions taken by TFMC must not be delegated to any outside body.

The potential difficulties the elderly and non-mobile might face in accessing NHO services if NHOs were merged and their numbers reduced as a result of the BVR were discussed. Housing officers confirmed that the decision on NHO management/arrangements had not yet been taken, but that there was no reason why officers could not go out to the vulnerable and elderly.

Members raised the following concerns in respect of the delay, i.e.

- What was the potential impact of the delay in Executive consideration ?
- What would be the role of the Working Party ?
- Would the Sub-Committee look at the individual responses of the NHFs rather than the overall TC response to see they concurred ?

RESOLVED:

1. That the Sub-Committee keep a watching brief on the matter, and bring the matter back for consideration at such time as Tenant Council has made its response, prior to the Executive's consideration.
2. That the Sub-Committee receives a report back on Stakeholder Forum activity in relation to the BVR Housing Management: Support for Resident Involvement & the Tenant Fund
3. That the issue of access to neighbourhood housing offices be revisited at such time as the Sub-Committee scrutinises the implementation of the BVR Housing Management NHO re-organisation.

8. PRE-SCRUTINY: REVIEW OF SECURE TENANCY AGREEMENT (see pages 136-207, 208-209)

In introducing the current review, Harry Marshall stated that the changes proposed represented only the third significant change to the Council's secure tenancy agreement since 1980 - the last draft having followed the 1985 Housing Act. The proposals were borne of a wish to simplify the agreement. The authority acknowledged the current agreement needed to reflect current housing problems and conditions, and that the Tenant Handbook needed to be made more comprehensive [including fuller details of repair and other procedures, for example]. The more regular updating required was acknowledged.

The production schedule for the Tenant Handbook was based on the assumption that the revised tenancy agreement would be accepted in December 2003, with the Handbook's preparation taking place between January – March 2004.

The findings of the Working Party established to review the document had been incorporated into the document subsequently accepted by Tenants Council and on which feedback had been received from most but not all of the Neighbourhood Forums. The current report as circulated contained detailed clause-by-clause information about the proposed changes. Members asked officers to make their entries in the "comments" column less opaque.

Members discussed the consultation process employed for the review, touching upon issues of how best to publicise the review to tenants whose first language was not English, or who had sensory disability [suggestions included taping leaflets, and use of Southwark's translation unit]. The Divisional Housing Manager advised that the authority risked legal challenge to its consultation if it was found that tenants were not properly informed of proposed changes, and that compliance could not be ensured if a tenant did not understand the agreement. Members suggested that officers make use of existing networks and contacts such as Chairs and Secretaries of tenants associations to ensure all tenants had been contacted. It was noted that the Council's translation unit could provide support where it was made aware of a tenants need.

The Divisional Housing Manager acknowledged the tension between using necessarily technical language in the Tenancy Agreement to ensure it could be legally enforced, and ensuring the agreement and Handbook were plainly and clearly written. The Council could not put the legality at risk in order to make the documents more accessible, ultimately.

Comments from Neighbourhood Forums were included in the clause analysis table where not concurring with the proposals. No discrete list of summary comments from NHFs was available, however.

In response to the Member question of how well the proposed clauses conflicted or concurred with new Housing legislation, in respect of tenant rights, Harry Marshall confirmed that the tenancy agreement could contain clauses that increased a tenant's rights, but it could not include clauses that removed rights at law.

Members expressed concern that the tenant review papers had been put to NHFs on the same nights they were expected to consider the BVR Housing Management, and that this might have mitigated against full consideration of either item. Harry Marshall believed that the minutes of these meetings in the main suggested that proper consideration had been made of these documents.

Members expressed concern that the decision in respect of the tenancy review might have been taken at NHF meetings where tenants were not in the majority of those present. For example, leaseholders were in the majority at the Denmark Hill NHF meeting. Harry Marshall stated that in these cases the minutes reflected that the views expressed were those of the tenants present, and in this particular case the NHF supported amalgamation with another office so that discussion of tenant matters could be undertaken with more tenants.

Officers would be reporting to Tenant Council on 15th September 2003 with the final draft document, modelled on Appendix 2 and including the observations of Keith Broxup and feedback from the NHFs. Following this, each individual secure tenant would then be consulted on the proposals, in line with the Council's statutory obligations, and some weeks would be allowed for this major task. The intention was that changes to the agreement would be implemented in April 2004.

Experts involved in review and drafting of the proposals for change included: SASBU [help with cases and handbook drafting] and repair contractors. Legal advice had been given on compliance with the Human Rights Act.

Members acknowledged that there would be an increased emphasis on enforcement and management of the revised tenancy agreement, and a discussion ensued about where responsibility lay for enforcement of various behaviours. Officers confirmed that Housing staff, working with the Police and Environment & Leisure officers would be responsible for enforcement of Anti-Social Behaviour when it breached the tenancy agreement. Whilst Anti-Social Behaviour Orders [ASBOs] could be sought without reference to the tenancy agreement, having a strong agreement was likely to assist when taking action against tenants. Members acknowledged the wider issue of resources for and adequacy of youth provision and the possible impact on ASB. Officers stated that where tenants felt endangered, their first port of call should be to the NHO, who would monitor and investigate, evaluate whether a complaint was justified, and assess whether nuisance was being caused.

With reference to Clause 7(6), around which there had been some publicity in relation to the fear that almost any gathering of three tenants might be considered a breach of the agreement, Harry Marshall confirmed that this clause was already being re-worded and the revised clause would be included in the report to Tenant Council on 15th September 2003.

In respect of the role of Street Wardens in enforcement, Members observed that evening incidents were more common than daytime incidents, and that wardens were limited in not being permitted to approach children or youths in person to address ASB. Officers acknowledged that more work was needed on how wardens would work together with NHOs to enforce the tenancy agreement.

Members did not wish to see the Housing department becoming involved in matters better dealt with by the Police, with one Member expressing that current law and legal process was very well honed and that seeking to enforce beyond the Council's mandate could put the Council in difficult position. A distinction was drawn between the obligations of the authority in its role as Landlord and the Police's law enforcement role. It was agreed that the current clauses needed review, but also that Housing Department's authority should be strengthened to help it deal with antisocial behaviour.

With regard to clauses dealing with penalties on both tenants and contractors for missed appointments, staff were now incentivised to complete repairs, the authority was allocating specific, narrow timeslots for repairs, and that tenants were regularly paid £30 for contractors failing to keep appointments – an amount subsequently recharged to the contractor. It was not economic to charge tenants for missed appointments, however. It was legal to deduct compensation from the arrears of tenants, but not to deduct compensation from rent.

Discussion ensued about clauses relating to the condition of Council properties on return. The cost of re-instating properties after tenants vacated was discussed. Costs were charged based on factors including an estimation of the cost of reinstatement and whether a forwarding address was available for the tenant. The authority currently offers a £50 incentive to tenants who leave properties in their original condition.

Responsibility for cleaning/maintaining communal areas was discussed [Agenda p.149]. This was the authority's responsibility in general, except where the design or conversion of the property did not allow the Council access. In such cases the tenants were expected to act reasonably and share necessary cleaning of the area.

Members discussed possible approaches to scrutiny of this matter. It was acknowledged that scrutiny was considering the tenancy review when the existing processes for review were well advanced. Discussion covered whether time was best spent considering operational issues rather than strategic and policy matters, and the balance required. Members were keen that the Council's performance in meeting set targets be scrutinised.

Members noted that Overview & Scrutiny Committee on 7th July 2003 had asked this Sub-Committee to undertake joint work with the Environment & Community Support Scrutiny Sub-Committee on Anti Social Behaviour – Crack Houses on Estates. The Scrutiny Project Manager proposed that such work might take place between January – March 2004, with preparatory meetings taking place prior to this, and the Sub-Committee gathering information in preparation. Models for scrutiny joint working were being developed as appropriate for each review. It was anticipated that a nominated Member of the Environment & Leisure Scrutiny Sub-Committee would be able to attend Housing's November meeting to outline the preparatory work of that body.

RESOLVED:

- 1) The Sub-Committee to write to Harry Marshall to ask for details of how the Department intends to reach each individual tenant to consult on the proposed changes, asking for details of the minimum standards of consultation and what they imply.
- 2) Members agreed to revisit the next draft of the revised Tenancy Agreement proposals prior to their consideration by the Executive, with a view to making detailed comments in the proposed clause changes.
- 3) At such time as the Sub-Committee considers the matter, representatives from Southwark's Anti-Social Behaviour Unit [SASBU] and the Council's Housing Department [Chris Brown and Dave Hancock] be invited to provide evidence, together with comparative evidence from other local authorities in relation to enforcement.
- 4) The Sub-Committee agreed to maintain a watching brief on the progress of the existing review and to monitor the implementation and enforcement of the new agreement, following its implementation.
- 5) The Sub-Committee recommended that a joined up approach be taken to enforcement, with the Police being more involved than they are at present.
- 6) The Sub-Committee agreed to invite Councillor Alison Moise [Member of Environment & Community Support Scrutiny Sub-Committee] to its November 2003 meeting to discuss proposals for joint working on the issue of Anti-Social Behaviour – Crack Houses on Estates, agreed by OSC on 7th July 2003.
- 7) Members asked for further information in respect of:
 - Housing Department's detailed plans for consultation with individual tenants, including standards for consultation; and

- The timetable for the review of the secure tenancy agreement.

At 8.40 p.m. it was proposed, seconded and

RESOLVED: That the meeting stand adjourned for ten minutes.

At 8.50 p.m. the meeting reconvened.

9. **SUB-COMMITTEE WORK PLANNING SESSION** (see pages 212-217)

The Scrutiny Project Manager circulated a draft Work Programme schedule based on the Work Programme items agreed previously and ratified by Overview & Scrutiny Committee on 7th July 2003.

As agreed previously by the Sub-Committee, co-option nominations had now been invited from Tenant Council and Leaseholder Council. Members agreed to hold a short pre-meeting to welcome the new nominees once nominations were received.

Members noted that the Housing Conference arranged for 27th September 2003 would include a workshop focusing on how well the authority consults with tenants.

RESOLVED: The draft schedule of work for the Sub-Committee was agreed

The meeting ended at 9.25 p.m.

CHAIR:

DATED: