

SUSTAINABLE COMMUNITIES SCRUTINY PANEL
Thursday, 15th July, 2010

Present:- Councillor The Mayor (Councillor McNeely) (in the Chair); Councillors Blair, Ellis, Gamble, Havenhand, P. A. Russell and Walker. together with Mr. J. Carr (Environment Protection UK), Derek Corkell (RotherFed), Andrew Roddison (RotherFed), Jenny Andrews (Maltby Town Council) and George Skinner (Whiston Parish Council).

Apologies for absence were received from Councillors Atkin and Hodgkiss.

12. DECLARATIONS OF INTEREST

There was 1 Declaration of Interest made at the meeting:-

Councillor Ellis	Robond
	Chair and Trustee

13. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no members of the public and press present at the meeting.

14. COMMUNICATIONS

The Chair welcomed Jenny Andrews and George Skinner, new co-optees to the Panel for 2010/ 11 .

A reminder was also given that all mobile telephone must be switched off during the meeting unless exceptional circumstances applied.

15. CO-OPTEEES 2010/ 11

The Chair welcomed back Jack Carr, Derek Corkell and Andrew Roddison.

It was noted that representative(s) of the Older Person's Forum would be invited to the Scrutiny Panel as and when there was an issue they would be interested in.

16. REPRESENTATION ON OUTSIDE BODIES

Consideration was given to the nominations to various bodies as set out in the report submitted.

Resolved:- (1) That the Cabinet Member for Housing and

Neighbourhoods be advised of the following nominations to outside bodies:-

Councillors McNeeley P. A. Russell	Decent Homes Partnering Board
Councillor Walker	Rotherham Rent Bond Guarantee Scheme
Councillor Ellis	RUSH House Management Committee
Councillor Atkin and Mr. J. Carr	Environmental Protection UK Yorkshire and Humberside Division
Councillor Ellis and Mr. J. Carr	Yorkshire and Humberside Pollution Advisory Council
Councillor Havenhand	Women's Refuge

17. REPRESENTATION ON WORKING PARTIES/ PANELS

Resolved:- That the following nominations be made to the bodies set out below for the 2010/ 11 Municipal Year:-

Councillor P. A. Russell Health, Welfare and Safety Panel
Substitute – Councillor Nightingale

Councillor Atkin Recycling Group

Councillors McNeely and Members Sustainable Development
Action Group
Walker

Councillor McNeely Churches Together

18. WORK PROGRAMME 2010/ 11

The Scrutiny Adviser submitted an Outline Work Programme for 2010/ 11 which set out issues identified for future consideration by this Scrutiny Panel during the forthcoming Municipal Year.

It was not possible to be too specific at the present time on the precise nature of some issues for scrutiny and, therefore, the forward work programme would, to some extent, evolve during the course of the year. As the public sector in general and local government in particular were required to make very large savings in

the next 3-5 years, the Panel may wish to scrutinise closely any proposals coming from Service Areas in the next few months.

Panel Members and officers had been contacted for their views on issues to be discussed over the Municipal Year. An outline programme had been formulated reflecting those comments and incorporating issues previously requested at Panel meetings.

Issues identified for future scrutiny reviews included:-

- Role of Private Sector Housing in Rotherham
- Housing Market Renewal – moving on
- Sheltered Housing Warden and Care Enabler Service
- Developing work with Rother Fed
- Future of Rotherham 2010 Ltd.
- Adaptations and Improvements
- Neighbourhood Services and Democracy

The following were also suggested:-

- Role of the Pollution Council
- Council New Build
- 1 Town 1 Community

Discussion ensued on the report including reference to:-

- Housing Allocations Policy
- Bereavement Service
- Repairs and Maintenance Service
- Waste Recycling Plant

Resolved:- That the Scrutiny Adviser be requested to subject the possible Scrutiny Reviews to the Scrutiny checklist for suitability.

19. REVIEW OF STRAY DOG ARRANGEMENTS

In accordance with Minute No. 9 of 3rd June, 2010, the Director of Housing and Neighbourhood Services submitted a review of the Stray Dog arrangements within Housing and Neighbourhood Services together with four options for the future based on projected costs of service provision as well as a benchmark of services within the sub-region.

The projected year end figures for the number of dogs seized by the Council in 2009/ 10 fell by 11% as well as a decrease in complaints by 13.5%. There had been an increase of 5% in the projected numbers of dogs received out of hours up to 10.00 p.m. and taken

to the contracted kennels.

It was reported that in comparison with neighbouring authorities, Rotherham provided the most comprehensive stray dog out of hours service in South Yorkshire. Doncaster provided a reception facility at its contracted kennels, Barnsley did not provide any service and Sheffield owned and operated its own stray and re-homing kennels as a business which operated outside office hours due to very large demand.

In 2008/ 09 there was an increase to the Stray Dog budget of £10,000 per year to cover the changes in Legislation. This funded 7 additional spaces at the main contracted kennels and an out of hours transit kennel arrangement. However, due to the Council's approach to all dogs "seized" being received out of hours, there had been an increase in customer demand on the owner of the animal sanctuary where the transit kennel facility was sited. Re-negotiation had taken place with regard to the arrangements for on-site customer service and which had resulted in the introduction of part year service fees for 2009/ 10 and increased annual leasing cost.

Due to increasing costs which were not sustainable in the budget as well as decreasing demand for the service, 4 assessed options were set out in the report:-

- | | |
|----------|---|
| Option 1 | Continue with current provision in 2010/ 11 |
| Option 2 | Removal of all out of hours stray dog services |
| Option 3 | Adjust the service to provide a reception facility at the Council's contracted kennels. It was pointed out that this option was affordable and reflected the current demands for the service. |
| Option 4 | Stray Dog Collection Service out of hours by a private kennelling company |

Details of the financial issues and projections for the four options, together with the risks and uncertainties, were set out in the submitted report.

It was noted that the situation was to be monitored and a further report to be submitted to the Cabinet Member in 12 months time.

Resolved: - (1) That the report be noted.

(2) That the follow-up report also be submitted to this Scrutiny Panel.

In accordance with Minute No. 9 of the meeting held on 3rd June, 2010, the Director of Housing and Neighbourhood Services presented the 2009/ 10 Neighbourhoods General Fund Revenue Account.

The final 2009/ 10 outturn position was a net overspend of £482,000 (+11.6%), an improvement on the previous forecasted outturn position (£610,000).

Detailed analysis of the overspend was set out in Appendix 1 of the report submitted. The most significant area of overspend was in the Independent Support Service (Wardens) or Older People's Housing Services which had been reported as a pressure throughout the year. The costs in 2009/ 10 had been partially offset through management actions and savings across wider Neighbourhood Services.

The key details were:-

Independent Support Service (Wardens)	£592,000 overspend
Safer Neighbourhoods	£50,000 overspend
Business Regulation	£105,000 underspend
Neighbourhood Partnerships	£18,000 underspend
Housing Access	£19,000 underspend
Housing Choices	£18,000 underspend

There had been £35,000 spend on agency staff but no spend on consultancy within Neighbourhoods.

Discussion ensued on the report with particular reference to:-

- Independent Support Service (Wardens)
- Moratorium on supplies
- Agency staff

Resolved:- That the report be noted.

(2) That the Performance and Scrutiny Overview Committee be asked to request a report on the numbers of agency staff employed for over 6 months across the Council with this Scrutiny Panel being informed of the outcome.

21. HOUSING INVESTMENT PROGRAMME (HIP) 2009/ 10 AND OTHER CAPITAL SCHEMES

In accordance with Minute No. 9 of 3rd June, 2010, the Director of Housing and Neighbourhood Services presented the final outturn position for the 2009/ 10 Housing Investment Programme (HIP).

The Programme's outturn position was £77,860M, an underspend of £910,000 (1.15%). Within the overall underspend it was noted that schemes managed by 2010 Rotherham Ltd. (£62,283M) had underspent by £1.090M and £15,532M on schemes managed by the Council.

The report set out a scheme by scheme analysis of spend against the approved Programme with explanations for any significant variances.

Discussion ensued on the report with the following issues highlighted:-

- Decent Homes Environmental Works
- Windows Replacement Programme
- Regional Housing Grant
- Non-Traditional Investment

Resolved:- That the report be noted.

22. INTRODUCTORY TENANCY REVIEW PANELS

Steve Clarke, Legal Officer, and Jenny Swales, Anti-Social Behaviour Officer, attended the meeting in order to give Members an overview of the Introductory Tenancy Review Panels.

Steve gave the following powerpoint presentation:-

Types of Tenancies

- Introductory Tenancies
- Secure Tenancies
- Most RMBC Tenancies are secure
- "Secure" because if the tenant complies with the terms of the Tenancy Agreement s/ he can keep the tenancy for as long as s/ he wishes

Introductory Tenancies

- Introduced as a tool to tackle anti-social behaviour (but could be used for any breach of tenancy) e.g.
 - o Selling drugs/ drug abuse
 - o Threats/ use of violence

- Verbal abuse/ harassment/ racial abuse
- Loud music
- Arguing/ door slamming
- Threats/ damage to others property

- Adopted by Rotherham from October, 2003

- All new tenants must be Introductory Tenants (unless immediately before the start of the tenancy they were a secure tenant of another local authority or assured tenant of a Housing Association)

- 12 months 'trial period'

- If no breaches of Tenancy Agreement, tenant automatically became secure tenant after 12 months

- No security, no Right to Buy

- To end the tenancy, RMBC must serve the tenant with a Notice of Proceedings for Possession (NPP)

- Inform the tenant that s/ he has the right to request a review of the decision to seek a Possession Order and the time in which the request must be made i.e. 14 days from date tenant served with the NPP

- Inform the tenant that if s/ he needs help or advice about the NPP, s/ he should take it immediately to CAB/ Housing Aid Centre/ Law Centre/ Solicitor

- Personal service or post through letter box

- Review – if tenant wants an oral hearing s/ he has to request it within 14 days of receipt of NPP. NB request need not be in writing

- Oral hearing conducted by Elected Members
- Tenant has to be given at least 5 days notice of the date of the review hearing – if less than 5 days notice given, hearing can only proceed with consent of tenant/ representative

- Prior to the hearing, tenants will be supplied with the written evidence relied on by RMBC. This may include:-
 - Chronology of events
 - Witness statements from officers (which may include hearsay)

- from unidentified complainants)
- Witness statements from identified complainants
- Members of the Review Panel follow the procedure but can deviate from this in order to ensure a tenant has a fair hearing as long as the following principles are maintained:-
 - Tenant can be heard and hear evidence against them
 - Be accompanied and/ or represented by another person (professionally qualified or not) – a representative has the same rights as the tenant
 - Call persons to give evidence
 - Put questions to any person who gives evidence at the Review Panel (but not witnesses who have not attended but have statements)
 - Make representations in writing
- Guidance suggests reviews should be conducted as far as practicable as an ‘inquisitorial’ hearing rather than as a Court style ‘adversarial’ hearing
- Make tenant/ representative aware at outset as to how Members intend to conduct the review
- Vulnerable tenants need special consideration
- Officers should have made early contact with support agencies to explore solutions/ additional support rather than immediately evict
- Be aware of different cultures/ languages
- Members of the Review Panel must:
 - Review the evidence before them
 - Disregard any evidence that is not credible or irrelevant
 - Check the NPP is valid
 - Decide on balance of probabilities (i.e. more probable than not) whether tenant has breached terms of Tenancy Agreement
- If proper notice of the review hearing is given to the tenant but the tenant does not attend, Members must take into account all the circumstances (including any explanation given for the tenant’s absence) and can either:-
 - Proceed in the tenant’s absence or
 - Give directions re. future conduct of review
- If tenant requests a postponement of the hearing, Members can grant or refuse as they see fit – they should provide reasons if

they refuse

- The hearing can be adjourned at the request of tenant/ representative or if Members wish to adjourn –but the same members must sit at the adjourned hearing or there has to be a complete re-hearing. Can have 1 of the original Members missing but only with the consent of the tenant/ representative
- Review must be carried out and tenant supplied with written reasons before date specified in NPP i.e. date after which Possession Proceedings can be begun
- A written decision letter must be served on the tenant which clearly sets out:-
 - o What evidence was heard
 - o Which facts were established as agreed
 - o Which facts were in dispute and
 - o The findings of the Review Panel and the reasons for the findings
- If the tenant fails to vacate the property, the Council must apply for a Possession Order
- Possession Proceedings must be issued in the County Court before the end of the 12 month trial period otherwise the introductory tenancy will automatically become a secure tenancy
- Court must order possession if we prove:-
 - o The tenant was an IT
 - o The NPP was valid (and review properly carried out if requested)
 - o Court Proceedings were begun after the date stated in the NPP
- Court can only postpone possession for up to 14 days (or up to 6 weeks in cases of “exceptional hardship”
- If the review upheld service of the NPP, the only viable way of challenge is by Judicial Review
- Application High Court
- No reasonable authority could have come to that decision, failure to conduct hearing properly, failure to give proper reasons

Extending the Introductory Tenancy

- Extension of 12 months trial period by further 6 months so total

of 18 months

- Introduced in June, 2005
- Used for minor breaches e.g.
 - o Occasional noise
 - o Minor damage to home
 - o Upkeep of home/ gardens
- Service notice of extension at least 8 weeks before the end of 12 months trial period
- Notice must give reasons and deal with review procedure
- Tenant must request review within 14 days of service of Notice
- Oral/ written review
- Must give tenant at least 10 clear days notice of date of review and if oral review, time and place
- Tenant must supply any written representations to RMBC at least 2 clear days before the date of the review
- Same rights for tenant as in review of NPP

Discussion ensued on the presentation with the following issues raised/ highlighted:-

- The NPP leaflet was in need of updating
- Not all Notices were served by Anti-Social Behaviour Officers; some were by 2010 Rotherham Ltd.
- Normally when a tenant signed the Tenancy Agreement any difficulties they may have with reading etc. were raised
- Should the application form for housing be revised to take account of the above-mentioned point?
- The tenant's Ward Members would not be included on a Review Panel. Should the tenant have any reasonable objections to the make up of the Panel they would be facilitated
- Wherever possible papers relating to a Review Panel were hand delivered rather than posting through a letter box
- Paperwork presented to Court was different to that submitted to a Review Panel. Once the Panel had made a decision, the Judge had no option but to concur

It was noted that a number of issues had been raised at a previous Review Panel hearing which had been through to the Service Solicitor

and 2010 Rotherham Ltd.

Jenny and Steve were thanked for their presentation.

Resolved: (1) That 2010 Rotherham Ltd. be informed of the Panel's views with regard to the need to update the NPP leaflet.

(2) That a report be submitted to the Panel on the outcome of the issues raised at a previous Review Panel.

23. CABINET MEMBER FOR HOUSING AND NEIGHBOURHOOD SERVICES

The Panel noted the decisions made under delegated powers by the Cabinet Member for Housing and Neighbourhoods held on 21st June, 2010.

24. SUSTAINABLE COMMUNITIES SCRUTINY PANEL

The minutes of the meeting held on 3rd June, 2009, were agreed.

25. PERFORMANCE AND SCRUTINY OVERVIEW COMMITTEE

The minutes of the Performance and Scrutiny Overview Committee held on 21st June, 2010.