

Subject: Decisions to evict Council tenants where a possession order has been granted

Report to: Council - 21 February 2017

Report by: Monitoring Officer

SUBJECT MATTER/RECOMMENDATIONS

To consider a recommendation from the Housing and Neighbourhoods Committee to establish a Housing Appeals Committee.

1. INTRODUCTION/BACKGROUND

On the 8th December Housing and Neighbourhoods Committee Resolved to recommend to Council as follows:-

“That the Committee recommend to Council that the Housing Appeals Committee be re-instated and that decisions on evictions are referred to Members.”

The report on the matter to Housing and Neighbourhoods from the Monitoring Officer is attached to this report.

Members are asked to consider the recommendation. If the recommendation is approved in principle then members might resolve along the following lines:

“RESOLVED to approve in principle the creation of a Housing Appeals Committee and to refer the matter to Constitution Working Party to settle numbers, frequency of meetings and terms of reference. The Housing Appeals Committee will begin meeting after the Council’s Annual General Meeting in 2017.”

My advice to members endorses that of the Monitoring Officer in the report to Housing and Neighbourhoods, that is to say, that the creation of a committee to exercise one or more aspects of day to day housing management is somewhat anomalous and unnecessary.

Members’ role should be a strategic and policy role and the carrying out of operational functions is more appropriately done by officers.

2. BACKGROUND PAPERS

Monitoring Officer's report

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	Yes
Section 151 Officer Consultation:	No
Existing Council Policies:	Yes
Financial Implications:	No
Legal Implications (including human rights):	Yes
Risk Implications:	No
Equality Issues/EQIA assessment:	No
Crime & Disorder:	No
Every Child Matters:	No

Subject: Decisions to evict council tenants where a possession order has been granted

Report to: Housing & Neighbourhoods Committee, 8th December 2016

Report by: Chris Skinner, Monitoring Officer

SUBJECT MATTER/RECOMMENDATIONS

This report details the decision making process when considering an eviction of a council tenant.

1. INTRODUCTION/BACKGROUND

1.1 This report follows on from a discussion at the previous committee when members queried the decision making process for evictions.

2. EVICTION PROCEDURE

2.1 The decision to apply to the court for a possession order for a council house or flat let on a secure tenancy is delegated to officers. Applications are made when there are rent arrears, breach of tenancy conditions or neighbour nuisance. It is quite usual for a court to grant a suspended possession order. In these cases the tenant can continue in occupation provided they comply with the terms of the court order. This might require the payment of the rent arrears in instalments or it might include the cessation of activities causing a nuisance. In some cases the possession order will not be suspended. Obtaining a possession order does not of itself result in the eviction of the tenant. To obtain possession of the property the Council must apply to the Court for a warrant of possession. This decision is delegated to officers. Even at this stage the tenant can apply to the Court for a suspension of the warrant.

2.2 Under the delegation scheme approved by the Council, and contained in the Constitution, possession and eviction decisions are delegated to officers. This has been the case for at least 14 years and is the position in nearly all housing authorities. Officers take into account the Council's general policies including the GYCH Rent Income & Arrears Policy, GYCH Introductory Tenancy Policy & the GYCH Anti-Social Behaviour Policy. The individual circumstances of tenants and their families, and the decisions made in other cases are also considered. This ensures consistency of decision making. The Court also has a wide discretion in whether to grant a suspended possession order and whether to suspend a warrant of possession. Clearly this provides an independent review of the decisions made by officers.

2.3 When considering the eviction of introductory tenants, there is scope for tenants to appeal to the Council (given their appeal to the courts is limited to procedural issues). Any appeal would need to be to person senior to the decision maker which would not be possible in a non-delegated model. Under the current policy, an appeal is usually heard by the Group Manager for Housing Services.

2.4 There was a time when eviction decisions were taken by a housing management committee. This led to inconsistent decisions, with special pleading by members on behalf of individual tenants influencing a decision. Furthermore decisions were slower, having to take into account meeting dates of the committee.

3. FINANCIAL IMPLICATIONS

None

4. RISK IMPLICATIONS

None

5. CONCLUSIONS

- 5.1 If the Committee considers that evictions should in fact be a member decision, the matter will have to be considered by the full Council

6. RECOMMENDATIONS

- 6.1 Your officers would not recommend a change in the Council's policy.

7. BACKGROUND PAPERS

GYCH Rent Income & Arrears Policy,
GYCH Introductory Tenancy Policy
GYCH Anti-Social Behaviour Policy

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	MO report
Section 151 Officer Consultation:	N/A
Existing Council Policies:	GYCH Rent Income & Arrears Policy, GYCH Introductory Tenancy Policy

	GYCH Anti-Social Behaviour Policy
Financial Implications:	N/A
Legal Implications (including human rights):	Amendment of constitution required
Risk Implications:	N/A
Equality Issues/EQIA assessment:	N/A
Crime & Disorder:	N/A
Every Child Matters:	N/A