

<b>Committee:</b> Housing Management and Almshouses Sub-Committee	<b>Date:</b> 23/03/2020
<b>Subject:</b> Tenancy Policy (Review)	<b>Public</b>
<b>Report of:</b> Director of Community and Children's Services	<b>For Decision</b>
<b>Report author:</b> Liam Gillespie, Head of Housing Management	

### **Summary**

The Housing Service's Tenancy Policy was reviewed in late 2019 and some minor amendments were made to the text (originally approved in 2017). At committee in January 2020, Members considered the revised policy and requested that officers provide additional detail in certain sections of the document.

These additions have now been made and the policy is now ready for reconsideration by Members.

### **Recommendation**

Members are asked to:

- Approve the Tenancy Policy for use by the Housing Service

### **Main Report**

#### **Background**

1. The Tenancy Policy was last approved by the Housing Management and Almshouses Sub-Committee in 2017. It was reviewed in late 2019 and some changes were made to incorporate suggestions made by the Comptroller and City Solicitors' Department.
2. Members made some suggestions for additions to the policy and these have been addressed by officers. Approval is now sought from Members to adopt the revised policy for use on the City's housing estates.

#### **Current Position**

3. The suggestions made by Members related to the following parts of the policy:

Not occupying the property for a 'significant period'

4. Section 9 of the draft Policy as presented in January stated, “In certain circumstances tenancies must be ended, for example if the tenant will not be able to occupy the property for a significant period of time”.
5. This section essentially concerns security of tenure and the City’s duty to actively manage use of social housing properties. To retain security, tenants must satisfy the ‘tenant condition’ in s. 81 of the Housing Act, 1985, which requires them to use the property as their ‘sole or principal home’. This allows tenants to live elsewhere, provided that the City property remains their only or main home and they intend to return to it.
6. If the tenant does not satisfy this tenant condition, they lose security of tenure and the City may proceed to seek possession of the property. Security may be lost if, for instance, the tenant abandons the property, sub-lets, or moves to another home (for example, moving in with their partner elsewhere, with that home being their principal residence).
7. The City has a duty to ensure that properties it allocates as social housing are being used for that purpose. We require that tenants tell us of any absences of more than three months and explain why they are going to be away, in order to satisfy us that they intend to return and that they are not sub-letting, for instance.
8. It is not possible to put a timescale on absence that may result in loss of security of tenure, as the main issue is whether the tenant meets the ‘tenant condition’. They may be absent for many months and still meet the condition if they intend to return and they have not sub-let the property (for example, if they are serving a prison sentence or they are caring for a relative elsewhere).
9. Each case is a question of fact and degree and depends on the evidence available. Officers will always seek legal advice before deciding on what action to take.
10. The reference to those serving prison sentences has been removed as this was an unhelpful example, as loss of security of tenure for this reason is also a question of degree.

#### *Taking steps to end the tenancy*

11. Section 9 also stated that, “...the City will take appropriate legal steps to end the tenancy.” Members asked for clarification on the steps that would be taken.
12. The City may only recover possession of a residential property by obtaining a possession order from the County Court. A notice will be served on the tenant, giving four clear weeks’ warning of our intention to apply to court for possession. Before awarding possession, the court must be satisfied that there is enough evidence to make out the relevant ground in the 1985 Act or show that security of tenure has been lost.
13. This section of the policy is intended to reinforce the point that tenants must live in their homes as their sole or principal home. The requirement to inform us of

any long-term (i.e. over three months') absence is to show that they have an intention to return and for arrangements to be made for emergency access in their absence.

14. We may take steps to end a tenancy and seek possession at any time if there is enough evidence that the property has been abandoned, or that the tenant does not meet the 'tenant condition'. Any action taken will depend on legal advice.

#### Helping tenants to avoid homelessness on relationship breakdown

15. When a joint tenancy is ended due to relationship breakdown, our duty to the party intending to leave the property is limited to referring them to sources of advice. Officers must be careful not to be seen to influence the parties in deciding who should remain in the property if they cannot agree themselves.
16. We are unable to 'split' tenancies and allocate properties outside the Allocations Scheme, though we will assess any application made by the departing tenant in accordance with that scheme.
17. Officers are sensitive to potential vulnerabilities and reference is made in the policy to assistance that can be provided to victims of domestic abuse, for example. Our Housing Needs team can always provide initial advice and make referrals to the Homelessness Team or another authority's services, or an advice agency, as required.
18. A new paragraph (no.18) has been included regarding homelessness prevention and advice generally.

#### **Conclusion**

19. Members requested that additional information was included in the draft Tenancy Policy as presented to committee in January 2020, in order to clarify some sections. This has now been addressed and Members are asked to approve the revised draft, subject to any further comments they may have.

#### **Appendices**

- Appendix 1 – Draft Tenancy Policy (revised wording is indicated)

#### **Background Papers**

- Tenancy Policy Review, Housing Management and Almshouses Sub-Committee, 20/01/2020

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