

Agenda Item IMD1

INDIVIDUAL EXECUTIVE MEMBER DECISION

REFERENCE IMD: 2023/01

TITLE	Response to Homelessness Legislation Consultation
DECISION TO BE MADE BY	Deputy Leader of the Council and Executive Member for Housing - Stephen Conway
DATE, MEETING ROOM and TIME	17 January 2023 LGF3 at 11am
WARD	None Specific;
DIRECTOR / KEY OFFICER	Director, Place and Growth - Steve Moore

PURPOSE OF REPORT (Inc Strategic Outcomes)

To agree on Wokingham Borough Council's response to the Government's consultation titled 'Technical consultation to proposed changes to homelessness legislation', for submission by 25th January 2023. This consultation seeks feedback from local authorities regarding the implications on the proposed removal of Section 21 notices, fixed-term tenancies and assured shorthold tenancies as well as other minor technical amendments to the legislation.

RECOMMENDATION

That the Executive Member for Housing authorises Wokingham Borough Council to respond to this consultation as set out in Enclosure 1 of this report.

SUMMARY OF REPORT

This report summarises the response which Wokingham Borough Council intends to submit to central Government through this consultation. This response focuses on the predicted impacts that the Renter's Reform Bill and the 3 different options to changing the homelessness legislation will have on the Council's resourcing, capacity and caseloads. While the Council welcomes the removal of Section 21 notices, the options outlined all have consequences on our operations as the proposed responses in Enclosure 1 detail. Option 1 simply removes reference to Section 21 notices; Option 2 makes local authorities accept prevention duties upon issuance of a Section 8 notice regardless of the resident being threatened with homelessness. Option 3 is the recommended officer's approach as it removes Section 21 notices but gives the local authority agency over when to accept a prevention duty whilst also providing a list of reasons landlords will need to provide along with the issuance of a Section 8 notice.

Background

This consultation was released to ascertain the views of local authorities on the implications to the homelessness legislation as per the Renter's Reform Bill which is due to be submitted to the House of Commons by May 2023. This follows the Levelling Up White Paper February 2022 and the Fairer Private Rented Sector White Paper June 2022. The latter re-affirmed the commitment to end 'no-fault' evictions. The primary aims of the proposed legislation amendments is the ending of Section 21 notices and to move away from fixed-term tenancies and assured shorthold tenancies to make all tenancies either assured or periodic tenancies in the future. The purpose of this legislation is to ensure that no tenant will be evicted without good reason whilst providing landlords with a fair, yet robust, means to end tenancies in a clear set of circumstances. This comes at a time when no-fault eviction notices increased by 76% nationally between April-September 2022 with 5,940 Section 21 notices issued.

A Section 21 notice is a clause within an assured shorthold tenancy that permits landlords to start the legal proceedings to end a tenancy. This clause effectively defines an assured shorthold tenancy (AST) in which a landlord can evict a tenant without providing a reason. Therefore, the removal of Section 21 notices effectively converts assured shorthold tenancies to assured tenancies - hence the proposal to remove ASTs and strive towards making all tenancies periodic tenancies in the future. This will make Section 8 notices the only realistic means of landlords evicting tenants. Section 8 notices are only valid if a landlord provides a reason for the ending of the tenancy and the proposed changes to the legislation outline what constitutes this reasoning in Annex B of the consultation. The reasons listed are mostly related to the landlord seeking possession of the house and need to give the tenant a minimum of 2 months notice. The Council has invested in early intervention strategies with staff committed to ensuring that residents are offered support before they are owed a relief duty. This reduces the number of residents who approach the Council in crisis due to interventionist strategies. This includes targeting tailored support to individuals or families prior to presenting as homelessness by signposting key services from within the Council and the Wokingham Hardship Alliance.

Of the 32 homelessness approaches detailing the reason for approach as 'threatened with homelessness' in Q1 2022/23 in the Borough of Wokingham, 8 were due to Section 21 notices. Historically, there is evidence that a significant portion of those who approach the Council as 'threatened with homelessness' is due to Section 21 notices. However, it is anticipated that Section 8 notices will effectively replace Section 21 notices so we would not necessarily expect a notable change in the number of applications from people who are threatened with homelessness especially given the exceptional period of economic turbulence residents are currently experiencing.

The Council intends to submit a response to central government to reflect its predictions of the impact of each of the 3 proposed options to the changes in legislation on the Council's services, duties and its residents.

Business Case (including Analysis of Issues)

The Council intends to submit a response as it is important to have our views considered on legislation that will directly impact how the Council's homelessness services operate. Whilst the proposal increases tenancy security for the Borough's residents in private and social housing stock, the method in which these technical

changes are applied, and the impacts these have on the Council, need be considered. The consultation outlines 3 options which are summarised below:

Option 1 – Completely removes the specific requirements to accept and continue prevention duties that currently apply to Section 21 notices and evictions. The Council can assess whether a prevention duty is owed, and it can be ended if 56 days have lapsed.

Option 2 – Local authorities would have to accept a prevention duty at the point of a Section 8 notice being served regardless of whether there was a risk of homelessness in 56 days. This duty would not lapse after 56 days and would continue until one of the other circumstances for ending the duty applied. A list of mandatory reasons landlords can issue Section 8 notices is also not provided.

Option 3 – Same as Option 2 except Landlords would have to give an approved reason from a list for issuing a Section 8 notice. This is the officer's recommended approach as it begins to mitigate the risk of Section 8 notices being issued without a valid reason and essentially becoming the new Section 21 notices.

Comment is required on each of these options, focusing on the effects on the Council's resourcing, caseloads, staff capacity and homelessness prevention activity. Through the proposed consultation responses, we will outline the positives and negatives of each of these options and suggest which option would have the best outcome for our residents. Through the proposed responses, Option 1 is anticipated to have a neutral impact on the Council's resourcing, staff capacity and homelessness prevention activity as there is not sufficient information to suggest the abolishment of Section 21 notices will result in an overall reduction in the pressures on the above three factors. Option 2 has been identified as having a negative impact on the Council and is not recommended for adoption as there is no evidence there will be strong enough controls on Section 8 notices to end no-fault evictions. Finally, Option 3 is outlined as the most effective at managing the abolishment of Section 21 notices, however, more information on the monitoring of Section 8 notices and the mandatory reasons for eviction in Annex B is required as well as additional funding if local authorities are expected to implement this monitoring.

The reapplication duty (ensured residents who accepted private rented accommodation were not treated differently if they re-applied within 2 years) is also proposed to be removed as will become redundant with the removal of Section 21 notices and fixed-term tenancies. This would mean that all reapplications will be treated according to current circumstances, with no distinction between those who accepted private sector or social housing offers to end their previous main duty. The Council supports this decision as there is no benefit to retaining the reapplication duty following the implementation of the Renter's Reform Bill.

The proposed responses conclude by focusing on the impact the proposed changes may have on the Council's relationship with private rented sector landlords who generally prefer fixed-term tenancies. It is important for landlords' views to be considered as part of this consultation as their stock is vital to the homelessness pathway used by the Council. Overall, the end of Section 21 notices is welcomed, however, more information is required as to how Section 8 notices will be monitored and additional funding will be required before the true impact of these changes can be effectively predicted.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces unprecedented financial pressures as a result of; the longer term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A (see below)	N/A	N/A
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision

The purpose of submitting a consultation response is to put forward to Government the views of Wokingham Borough Council on our views of the expected outcomes of the various options to changes of this legislation as detailed in Enclosure 1 of this report. Any financial implications of the recommendation are entirely dependent on which option the government chooses to implement. There is no certainty that the views and recommendations of the Council will be reflected in the final decisions. It is impossible to attach a financial value to any benefit or negative incurred through this consultation response as the Council responding to this consultation does not have any direct financial implications.

Cross-Council Implications

The consultation responses respond to 3 different options proposed by government. The Council's response evaluates these 3 options but there is no guarantee that these views would be considered when government choose which option to progress. Overall, the Renter's Reform Bill will impact the homelessness prevention and environmental health teams most significantly and the extent of this impact will depend on which option the government decides to progress. The consultation response itself will have no impact on Council operations. All affected teams have been consulted as part of the process of forming the proposed consultation responses.

Public Sector Equality Duty

As part of this decision, due regard has been taken to the Public Sector Equality Duty. The equalities implications of the recommendation were discussed, and an Initial Equality Impact Assessment (Stage 1) document has been completed accordingly as per Enclosure 2. A Stage 2 assessment is not required as no negative impacts on groups have been identified.

SUMMARY OF CONSULTATION RESPONSES	
Director – Resources and Assets	No comment
Monitoring Officer	No comment
Leader of the Council	No comment

Reasons for considering the report in Part 2
N/A

List of Background Papers
<p>Enclosure I – Proposed consultation responses Enclosure II – Stage 1 Equality and Impacts Assessment</p>

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