

WESTMINSTER CITY COUNCIL

STATEMENT OF DECISION

SUBJECT: MINOR CHANGES TO THE TENANCY POLICY

Notice is hereby given that the Cabinet Member for Housing Services has made the following executive decision on the above mentioned subject for the reasons set out below.

Summary of Decision

That the Cabinet Member for Housing Services agreed that:

With regard to implementing tenancy reviews:

- (i) The Tenancy Policy be amended at 3.3, 3.5, 4.7 and 4.16 of the report to reflect circumstances where a new flexible tenancy of more than two or five years may be granted.
- (ii) The Tenancy Policy be amended at 4.17 and 4.18 to set out that legal notices to end all flexible tenancies will need to be served, regardless of whether a new flexible tenancy is being offered and to describe the associated information that will accompany this.

With regard to not introducing a local Pay to Stay Scheme:

- (iii) The reference to income and capital reviews in the Tenancy Policy at 4.6.3 be removed

With regard to generally updating the Tenancy Policy to reflect legislative and organisational changes:

- (iv) The Tenancy Policy be amended at 4.14.2 to make it clear that the mandatory right to possession has been implemented as part of the Antisocial Behaviour, Crime and Policing Act 2014
- (v) The Tenancy Policy be amended at 3.11 to make it clear that a secure tenancy will be awarded to any secure or assured tenant that needs to move as a result of domestic abuse in line with the Secure Tenancy (Victims of Domestic Abuse) Act 2018
- (vi) A range of minor changes be made throughout the Tenancy policy to improve the wording and to reflect updated job titles and practices etc.
- (vii) The Tenancy Agreement and Notices be approved.

Reasons for Decision

1. With regard to implementing tenancy reviews:

Legal advice has been received on the review process and as a result some changes are needed to the Tenancy Policy:

- The Tenancy Policy currently says that new tenancies will not be for longer than two or five years. Legal advice is that where a new flexible tenancy is offered, it should not cause a tenant to suffer a loss of entitlement. For example, if a further five year tenancy were to be offered at the review (which is held eight months before the tenancy expires) which the tenant accepted by ending his existing five year term early, then he would not have enjoyed the full length of his original term. To avoid this, and to incentivise existing flexible tenants to enter into new flexible tenancies early, new tenancies may be offered for longer than two or five years to ensure that the tenant does not thereby lose any time as a flexible tenant. For example, if the existing term is expressed to end on Monday 2 September 2019 but the tenant enters into a new tenancy that commences on Monday 6 May 2019 the new tenancy term will be expressed to end on Monday 2 September 2024 (a fixed term of five years and four months).
 - The Tenancy Policy currently says that where a decision has been made not to renew a tenancy, a 'Notice of Non Renewal' will be served at least six months before the tenancy is due to expire. Legal advice is that a legal notice best described as an "End of Tenancy Notice" must be served on *all tenants* at least six months before their current tenancy is due to end, even if, the flexible tenancy is being renewed. This is to enable the council to rely on the mandatory right to possession, a right that will have to be invoked if the tenant declines to sign a new flexible tenancy. In the absence of a possession order such a tenant would, by default, become a periodic secure tenant.
2. With regard to not introducing a local Pay to Stay Scheme:
- Westminster's Tenancy Strategy and Tenancy Policy support a Pay to Stay approach, which involves a higher rent being charged if it is identified at the tenancy review that the income of the tenant and their spouse or partner exceeds a certain threshold. It was agreed, as set out in the Supply and Allocation Report of Social Report 2018/19 that this policy should not go ahead at this time and this type of approach would be considered again as part of a full policy review. For completeness, some further additional changes need to be made to the Tenancy Policy to reflect this.
3. With regard to generally updating the Tenancy Policy to reflect legislative and organisational changes:
- The current Tenancy Policy refers to no further tenancy being granted to flexible tenants if they, or a member of their household, had been convicted of serious housing related anti-social behaviour in another court, and the offence meets the criteria to trigger the proposed mandatory Right of Possession. This right to mandatory possession has now become law as part of the Antisocial Behaviour, Crime and Policing Act 2014 and the Tenancy Policy needs to be updated to reflect this. Changes are also needed to make it clear that any existing secure or assured tenant will be offered a secure tenancy in line with the Secure Tenancy (Victims of Domestic Abuse) Act 2018

4. Minor changes are also needed to the Tenancy Policy to improve the wording and to reflect organisational changes and practices.
5. Changes are also need to the Tenancy Agreement and Notices to improve the wording, ensure they reflect the legislation and changes to the Tenancy Policy, and are fit for purpose going forward.

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Publication Date: 28 August 2019

Implementation Date: 28 August 2019

Reference: CMfHS/2019-2020/3