

Mayor And Cabinet			
Report Title	Comments of the Housing Select Committee on the proposed mandatory power of possession for Anti-Social Behaviour		
Key Decision	No	Item No.	
Ward	All		
Contributors	Housing Select Committee		
Class	Part 1	Date	5 October 2011

1. Summary

- 1.1 This report informs the Mayor and Cabinet of the comments and views of the Housing Select Committee, arising from discussions held on the officer report "Key Housing Issues" considered at their meeting on 13 September 2011.

2. Recommendation

- 2.1 The Mayor is recommended to note the views of the Housing Select Committee as set out in section three of the report and agree that the relevant Executive Director be asked to respond to the referral.

3. Housing Select Committee Views

- 3.1 On 13 September, the Housing Select Committee considered a report outlining the latest key housing issues, including a consultation that DCLG had issued on a proposed mandatory power of possession for anti-social behaviour.
- 3.2 It is proposed that landlords will be able to use the new mandatory power of possession where serious 'housing related' anti-social behaviour has already been proven. It will be available to all landlords – private and social – and it is intended to speed up the eviction process for those involved in serious crime where findings have already been made in another court.
- 3.3 To exercise the mandatory power, landlords will need to serve a notice of proceedings on the tenant setting out why possession is being sought. The court will have to grant the order requested provided the correct procedure has been followed. Local authority tenants will have a statutory right to request a review of the landlord's decision to seek possession. Housing association tenants will be able to request a similar review using the landlord's complaints procedure.
- 3.4 The Committee believes, however, that the court's power should remain discretionary, so that courts can take into account all available evidence and the circumstances of the tenant and their family and decide not to make an outright possession order where it is reasonable not to do so. In reaching this view the Committee considered a range of circumstances in which an outright possession order would not be a proportionate response and these included victims of domestic violence who might be evicted due to the actions of a perpetrator resident at the

property or a tenant suffering from a mental illness or disability who may have been guilty of causing a nuisance or anti-social behaviour but who may be capable of conducting their tenancy in a tenant like manner with appropriate treatment and support. The Committee believes that the courts should retain the discretion to make a range of orders proportionate to the circumstances such as an order adjourning the claim for possession either generally or for a fixed term, or a suspended possession order, on terms as to the tenant's conduct in the future.

- 3.5 The Committee also notes that the threat of a possession order can only be applied to people in certain tenures, subjecting them to harsher consequences than owner occupiers who have displayed similar anti-social behaviour and do not receive the same level of sanction. If the power of possession remains discretionary it is likely to be used less frequently and this will help maintain equality before the law.
- 3.6 The Committee would like the Council's response to the consultation to reflect these views.

4. Financial Implications

- 4.1 There are no financial implications arising out of this report per se.

5. Legal Implications

- 5.1 The Constitution provides for Select Committees to refer reports to the Mayor and Cabinet, who are obliged to consider the report and the proposed response from the relevant Executive Director; and report back to the Committee within two months (not including recess).

BACKGROUND PAPERS

Key Housing Issues – Officer Report to Housing Select Committee (13.09.11)

If you have any queries on this report, please contact Charlotte Dale, Scrutiny Manager (ext. 49534), or Kevin Flaherty, Head of Committee Business (ext. 49327).