



Mayor and Cabinet

Comments of the Housing Select Committee on the use of Schedule 2, Ground 8 of the Housing Act 1988 by Housing Providers in Lewisham

Date: 8 May 2024

Key decision: No.

Class: Part 1

Ward(s) affected: All

Contributors: Nidhi Patil (Scrutiny Manager)

Outline and recommendations

At its meeting on the 14th of March 2024, the Housing Select Committee received presentations from housing providers regarding their repairs service. The 5 housing providers in attendance were- Clarion Housing Group, Hyde Housing, L&Q, Peabody and Southern Housing.

This report informs Mayor and Cabinet of the views of the Housing Select Committee following consideration of these presentations.

Mayor and Cabinet is asked to:

- consider the views of the Committee set out in Section 5 below and ask the relevant officers to provide a response.

1. Summary

- 1.1. This report informs Mayor and Cabinet of the views of the Housing Select Committee following consideration of the presentations received from housing providers regarding their repairs service. The presentations provided by the housing providers also included information on their use of Schedule 2, Ground 8 of the Housing Act 1988. Following questions to the housing providers, the Committee agreed to refer its views to Mayor and Cabinet. The Mayor and Cabinet is recommended to consider the views of the Committee and ask the relevant officers to provide a response.

2. Recommendations

2.1. Mayor and Cabinet is asked to:

- consider the views of the Committee set out in Section 5 below and ask the relevant officers to provide a response.

3. Policy Context

3.1. This report aligns with Lewisham's Corporate Priorities, as set out in the Council's [Corporate Strategy \(2022-2026\)](#):

- Cleaner and Greener
- A Strong Local Economy
- Quality Housing
- Children and Young People
- Safer Communities
- Open Lewisham
- Health and Wellbeing

3.2. In particular, this report is closely aligned to the priority- 'Quality Housing'. By receiving the repairs update presentations from housing providers, the Housing Select Committee's work supported the aims and objectives of this priority which includes:

- to provide as many people as possible with safe, comfortable accommodation that they can be proud of and holding landlords to account.

4. Background

4.1. The Housing Act 1988, Schedule 2 sets out the grounds for possession of dwelling-houses let on assured tenancies.

4.2. Part 1 of Schedule 2 sets out grounds on which Court **must** order possession. Ground 8 is included in Part 1 and states that¹-

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

- a) if rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;*
- b) if rent is payable monthly, at least two months' rent is unpaid;*
- c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and*
- d) if rent is payable yearly, at least three months' rent is more than three months in arrears;*

and for the purpose of this ground "rent" means rent lawfully due from the tenant.

¹ [Housing Act 1988- Schedule 2](#)

4.3. Part 2 of Schedule 2 sets out grounds on which Court **may** order possession.

5. Housing Select Committee's views

5.1. At its meeting on the 14th of March 2024, the Committee received presentations from 5 housing providers with housing stock in Lewisham, namely- Clarion Housing Group, Hyde Housing, L&Q, Peabody and Southern Housing.

5.2. These presentations provided the Committee with an overview of the housing providers' repairs services, along with additional information addressing the Committee's specific enquiries. Notably, this included a request for details regarding their use of Schedule 2, Ground 8 of the Housing Act 1988 in cases concerning rent arrears.

5.3. Ground 8 is a assured tenancy mandatory ground for possession. Therefore, the court **must** order possession if it is satisfied that the conditions for the mandatory ground are met.

5.4. The Committee had asked all 5 housing providers about their use of Schedule 2, Ground 8 of the Housing Act 1988 in rent arrears cases, and the specific circumstances under which it was it used. It was noted during the meeting that while the housing providers in attendance, did use Ground 8 against social housing tenants, such occurrences were exceedingly rare and reserved for exceptional circumstances.

5.5. However, the Committee raised concerns about the suitability of utilising Ground 8 against social housing tenants due to the absence of court discretion, given its mandatory nature for possession. It was discussed that discretionary grounds like Ground 10 or 11 were better suited for social housing tenants compared to Ground 8.

5.6. The Committee was concerned that all 5 major Housing Associations in the borough to a greater or lesser extent were using mandatory Ground 8 as a ground for possession against social tenants. *The Mayor & Cabinet is asked to investigate whether we could insist at nomination stage that Ground 8 is not used against Lewisham nominees.*

5.7. The Committee asks that a response to its referral is received from Mayor & Cabinet within the timeframe set out in the constitution.

6. Financial implications

6.1. There are no direct financial implications arising from this report. Taking the action suggested in this referral may have financial implications that will need to be considered by Mayor and Cabinet. These will need to be addressed in the response to this referral.

7. Legal implications

7.1. 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).

- 7.2. There are no direct legal implications arising from this report. Taking the action suggested in this referral may have legal implications that will need to be considered by Mayor and Cabinet. These will need to be addressed in the response to this referral.

8. Risk Implications

- 8.1. There are no direct risk implications arising from this report. Taking the action suggested in this referral may have risk implications that will need to be considered by Mayor and Cabinet. These will need to be addressed in the response to this referral.

9. Equalities implications

- 9.1. Equality Act 2010 brought together all previous equality legislation in England, Scotland and Wales. The Act included a new public sector equality duty, replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 9.2. The Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.

- 9.3. There are no direct equalities implications arising from this report. Taking the action suggested in this referral may have equalities implications that will need to be considered by Mayor and Cabinet. These will need to be addressed in the response to this referral.

10. Climate change and environmental implications

- 10.1. There are no direct climate change and environmental implications arising from this report. Taking the action suggested in this referral may have climate change implications that will need to be considered by Mayor and Cabinet. These will need to be addressed in the response to this referral.

11. Crime and disorder implications

- 11.1. There are no direct crime and disorder implications arising from this report.

12. Health and wellbeing implications

12.1. There are no direct health and wellbeing implications arising from this report.

13. Background papers

13.1. [Housing Select Committee- Meeting Papers](#), 14th of March 2024

14. Report author(s) and contact

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