

BRIGHTON & HOVE CITY COUNCIL
TENANT SCRUTINY PANEL ON LETTERS

10.00am 19 SEPTEMBER 2013

HAMPSHIRE LODGE

MINUTES

Present: Binder (Chair)

Other Members present: Collard, Sohna

PART ONE

2. WITNESSES

Chairs Communications

Simon Court – Housing and Litigation Senior Solicitor

The Senior Solicitor informed the panel of the following:

- 1.1 The Housing and Litigation team worked with Housing Strategy and Adult Social Care to help deliver the Housing Allocations Policy. There were currently 17,000 people waiting for accommodation.
- 1.2 The teams' work included :
 - possible actions to tenants who were in rent arrears and tenants causing anti social behaviour.
 - Injunctions for tenants who do not allow the council to carry out their legal duty of gas safety checks. Currently, there were 6 cases weekly that went to Court.
 - Injunctions for people who did follow the tenancy agreement to keep their gardens tidy.
 - Giving legal advice on Housing matters including the Housing Revenue Account.
- 1.3 Legal costs that tenants who were liable for ranged from £150-£175 plus court costs. Officer time was not generally paid by the tenant. { Point of clarification – this was in routine cases and not for the more complicated contested hearings – in which case the council would pursue costs, but as many defendants were legally aided the council can not enforce until their situation changes}.
- 1.4 Recently there had been a decline in anti social behaviour cases.
- 1.5 At Court the Council had to prove it had been proportionate and reasonable in their actions. Human rights had to be considered when taking possession of the property.

The council had to consider all equality issues with each case. The Housing and Litigation team had a checklist that the Housing Officers worked through for cases going to court which included whether the right support services had been offered to tenants eg. physical disabilities or mental health services.

- 1.6 Officers had defined duties when carrying out possession actions for rent arrears. 99.9% of the time the Council would prevent an eviction. There were huge resource and cost implications to the council when taking a tenant to court. The council needed to ensure they had the correct medical data on their tenants when attending court, eg. organic mental health- which included bi-polar, schizophrenia and non organic- which were social and cultural.
- 1.7 Tenants suffering with depression could fall into rent arrears and they found it hard to cope with the changes to the welfare reform.
- 1.8 Anti social behaviour cases took 18 months to take to court and also there were repeat offenders.
- 1.9 The letters themselves were not a critical element in court however the Court would expect to see that the council had followed a process and detailed actions and consequences, so it was important to show we had done all we could. The Notice for Seeking Possession (NOSP) was the most vital element and would be accompanied by a letter. However the covering letters needed to set out the right information at the right time. The letters must offer independent legal advice; various support agencies and what were the next steps if the tenant did not pay the rent arrears or if they did decide to settle the outstanding amount.
- 1.10 The NOSP letter did not mean that the Council would possess the tenants home but explained what would happen if the tenant continued not to pay. Checks should be done where appropriate into things like medical conditions.
- 1.11 The challenge was to pitch the letter at the right tone. It was important that the legal terms were in plain english and understood by tenants.
- 1.12 The letters could be reworded but the 4 elements that needed to be covered were:
 - The purpose of the letter
 - A housing benefit check had been completed
 - What support the council had offered their tenant
 - The legal advice ie. the consequence of not paying was going to court.

Best practice would be to ensure that Housing Benefit, Money Advice and other agencies were offered input on the letter.

- 1.13 70% of the Housing and Litigation teams work was with the Income Management team. 99% of the letters were written correctly. Evidence of the correct content in the letters was that organisations like the Brighton Housing Trust (who defended tenants), would have had a stronger case for their clients if the letters were not effective / correct. Also more importantly the Court would be critical.

- 1.14 If the letters were rephrased it would be interesting to see whether it would also get the high results that are currently achieved.
- 1.15 The letters were normally amended when something was addressed in a court case which had not been identified by officers/ or the legal team before.

Panel's comments:

- 1.16 Some of the letters were thought to be awkward eg. "*you do not have an outstanding claim for housing benefit*"- a suggestion was that the wording could be softer to say- "*that our enquiries have shown that you do not ...*". This may encourage tenants to contact the council. The Solicitor told the panel that sometimes it was the case that these tenants did not want to contact the council at all.
- 1.17 There were nearly 75% of social housing tenants who were effectively illiterate (who had a reading age of 7-8 years old), these letters would have been difficult to be understood by these tenants. The Solicitor told the panel that it was important to take an average tone.

Questions asked by the panel:

- 1.18 Does the court take into account home visits? Not really – it wanted to see that the council had done as much as it could which included home visits.
- 1.19 Could a log of the home visits be put into the letters? It often was – there was generally a section which detailed what attempts had been made to address the arrears.
- 1.20 Was there any legal reason for the current format and tone for the letters? The letters were part of the exhibits of witness statements in court. The wording, tone and how the letters were formatted were not legal requirements in court, including the bold red font. There were certain points that had to be addressed in the letters and the wording needed to be phrased clearly.

Laura Turner- Performance and Improvement Manager

The Panel were informed that:

- 1.21 The team were established last year through the restructure. Before the housing restructure there were patch districts (which consisted of 700-800 properties and housing officers covered a variety of duties. Since the restructure there was now one email address for all five Housing Offices and the housing teams were split and these included the Neighbourhood and Tenancy teams.
- 1.22 There were currently 5 Performance & Improvement Officers and one Performance & Data Analyst. One post was currently vacant and due to be recruited to.
- 1.23 The team had to keep up to date with the statutory regulations of being a social landlord. The team:
 - Gave advice on the tone and format of some of the housing teams letters
 - Worked with Senior and Service Managers who requested data
 - Worked with colleagues across the country to seek best practice about the Welfare Reform changes and the Localism Act.

- Collate benchmarking data and developed performance indicators for services
- Updated internal procedures that were out of date due to legislation or restructure changes
- Provided regulatory advice for housing teams
- Support teams with their business planning and impact assessments

- 1.24 Examples provided for the types of letters the team have produced or revised included streamlining the process for fitting a cat flap into a tenant's home.
- 1.25 The service sought advice from residents on one or two letters but this hasn't been common practise.
- 1.26 The team had recently worked on letters with Environmental Protection about noise complaints and also when a tenant requests permission to alter or improve their home.
- 1.27 The Manager asked whether the panel would be interested in giving feedback on a letter that had been brought to the teams attention as requiring review. The 'Access Letter for Decent Homes Inspection' was signed by the Contract & Compliance Manager, now the Head of Property & Investment. It was uncertain which team had devised the letter. The panel agreed to give feedback.

3 letters were being emailed to the panel.

Letter 1 after tenant requests door with cat flap; Letter 2 sent to tenant after Noise complaint made to housing; Letter 3 Decent Homes inspection letter

Questions from the panel

- 1.28 Did the team have contact with residents? Yes, they carried out consultations with residents which included focus groups, telephone surveys and residents representatives. They attended residents associations and Area panels meetings and held a database which showed residents preferred way of contact eg. text, email or face to face and also worked closely with Resident Involvement Team.
- 1.29 Did the team work with the Income Management teams' (rent arrears) letters ? No the Income Management team worked on their own letters.
- 1.30 Were all the housing teams obliged to go to you? It was not mandatory to go through to the Performance and Improvement team but certain housing services did ask the team for advice on their draft letters.
- 1.31 Have the Performance and Improvement team been on a customer friendly writing letters course? The team had attended internal training courses which included – communicating in plain english. There was also a wealth of experience in the team including officers having experience of the following job roles: Housing Officers, Manager of Car Parks & Garages Team, Tenancy Sustainment, Project Officer with Cityclean and Housing Management Advisor.

- 1.32 Would a complaint about the tone of a letter be brought to your team's attention?
Managers tended to come to the Policy team with complaints.

Were letters of translation readily available for tenants or were they produced when required and what is the take up? Rent arrears and tenancy agreements letters were readily available in the top 5 languages and other letters were printed off when required. Outside services were used for interpreting and the translation of letters. The take up was about 10-20 a month and 70-80 across the year. In order to make the statistics comparable we would have to know how many tenants do not have English as their first language and who we need to get in touch with. It is often the case that family members translate, we would always use the translation services when communicating important messages and taking tenancy action.

Robert Keelan- Neighbourhoods Manager

The Panel were informed of the following:

- 1.33 The Neighbourhoods team were established in July 2012 after the restructure. The team were currently revising the Garden Standards procedure and Fire Safety removals procedure for common ways.
- 1.34 FIRE SAFETY : The Fire Safety letters that the team deliver stem from the Regulatory Reform (Fire Safety) Order 2005. The council need to ensure appropriate fire safety and work with residents to ensure common ways of blocks of flats are clear and safe.
- 1.35 The common ways are the responsibility of the council and as required by law, the landlord has to carry out fire risk assessments in each of their blocks. Work has been ongoing for a couple of years regarding common ways which look far clearer now. The original fire safety letters were written to all residents in a block to explain about the obstruction of the common ways and to start a large removals program. The service is now updating the procedure to facilitate more instant removal of risks which consequently has a reduction in letters and an increase in enforcement. There would need to be a programme of education with these new enforcement procedures. (Handouts). This would lead to the removal of items in all common ways. (Valuable removed items would need to be stored for 28 days at the storage office).
- 1.36 Tenants needed to be made aware that if for example there was a fire at night, residents and visitors could be disorientated if required to leave the building, and certainly in the event of a fire obstructions could threaten lives. Items that block the common ways included bicycles, washing machines, clothes airers.
- 1.37 The council had approximately 12,000 properties and 8,000 of these are flats.
- 1.38 The team will be placing warning signs in blocks of flats advising residents that items will be removed. If there is a block of flats that hasn't had correspondence about removal of items from common ways the team had Letter 1 of the common ways, which would give notice to tenants about their responsibility to keep the common ways clear and the initial block clearance of obstructions that would follow after the letter. A move towards a more instant removal policy would tackle repeat offenders who would remove goods before a routine inspection and then put the items back after the inspection.

- 1.39 The panel thought that the fixed notice (handout) was stern and would help to eradicate the problem.
- 1.40 **GARDEN STANDARDS** : The council had to enforce the gardening standards of its properties. These standards were part of the tenancy agreement. Garden standards were a subjective issue but badly maintained typically front gardens damaged the reputation of an area including that of the council. Previously garden management was driven by the local Housing Officer and did not follow any particular procedure. The Neighbourhood Team are now unifying a citywide procedure to improve gardening. (Handout). The team will have standard letters and checklists but will need to continue their personal contact and explain what they are trying to achieve to see what problems residents face in maintaining their gardens.
- 1.41 Older residents and tenants with disabilities would be informed of the council's discretionary garden scheme and other information that could help these tenants to upkeep their gardens if they were unable to do so.
- 1.42 Had there been an eviction due to a tenant not maintaining their garden? Not to the manager's knowledge, however tenants who were unable to maintain their gardens could be offered similar accommodation without a garden.

The panel's comment:

- 1.43 The service had been contacted about a garden, there were previous photos of the property on file and the matter had been effectively resolved in one week.

Questions from the panel

- 1.44 Tenants were not always aware what constituted the common ways when there was an internal lobby next to a front door. The team would have to educate tenants by visiting them as well as tailoring letters to be specific to each block of flats.

Dave Arthur – Leasehold Manager, Siobhan Newman - Recovery Officer, Emma Tennant - Corporate Income Manager

The Panel were informed of the following:

- 1.45 See handout 1 for details - "Leaseholders Service Charge recovery letters"-

"Leaseholders have a legal contract to pay the service charge. The service charge is percentage share of the total costs the council incurs in keeping the building in repair, providing management and services to the building".

- 1.46 The Interim Service Charge becomes due in monthly instalments. If the payment was not made the leaseholder was contacted either by telephone or email. If there was no response the first reminder letter would be sent.
- 1.47 At the end of September Leaseholders received the following by post:
- Certificate of Expenditure,
 - Leaseholder newsletter
 - Explanatory leaflet
 - Other information

- 1.48 A panel member confirmed that as a leaseholder she found the service accessible and was able to write to or telephone the service and had always received prompt and informative answers.
- 1.49 Whenever there were high costs involved with leaseholder payments, extended payment options were also available. Costs could be expensive due to major works such as cladding, windows, lifts, etc to a block of flats.
- 1.50 The equity in the leaseholders properties might be accessed to pay for these expensive major works costs. The collection rate decreases when costs have been high to carry out major works on the building.
- 1.51 A breach of the lease is a legal matter. Often the cases are undefended in court & the council is awarded a money judgement.
- 1.52 The service can have problems in contacting the leaseholder as 40% of the properties are sublet and the council is not always notified of the leaseholders contact addresses.
- 1.53 Many leaseholders had mortgages, and in these cases the mortgagees would often settle outstanding arrears rather than risk forfeiting the property.
- 1.54 Since the commencement of the Right to Buy Scheme, Brighton & Hove has a high number of leaseholder flats compared to other city local authorities. Approximately 25% of the flats had been sold to leaseholders.
- 1.55 As the lease was a contract, legal proceedings were different and clearer than for council tenants who rented.

Questions from the panel

- 1.56 Is training offered to staff who are writing letters? The Recovery Officer confirmed that she had been on a letter writing course and that she wrote the individual letters to leaseholders. New staff would always have their non-standard letters checked by a more experienced team member.
- 1.57 Did the service carry out visits? Only the Leaseholder team carried out visits.
- 1.58 How many times had forfeiture¹ been applied? Forfeiture was a last resort. The breaches of lease are normally remedied before that stage is reached. It had never happened.
- 1.59 Registered social landlords would try other options for non-payment of the lease rather than forfeiture.

¹ "Forfeiture of the lease would bring the lease to an end and possession of the premises would revert to the council. There is no compensation so the leaseholder loses any equity in the property even after the debt has been repaid." – Brighton & Hove City Council Leaseholders Service Charge Collections Procedures.

- 1.60 Are all leaseholders the same as Seaside Homes? Seaside Homes' leases were the same in most respects.
- 1.61 Why was the agency "Leasehold Advisory Service " not listed on the back of the letters? It was an agency that was listed in the handbook, but it is a good suggestion and this could easily be added to the list of advice agencies on the back of the letters.

The meeting concluded at 1.00pm

Signed

Chair

Dated this

day of