

Report of Housing Manager (Income Recovery)

Report to Director of Environment and Housing

Date: 16th October 2014

Subject: Amendments to the Director of Environment and Housing sub-delegation scheme

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. This report sets out proposed amendments to the sub-delegation scheme for the Director of Environment and Housing after the recent restructure within Environment and Housing, namely Housing Management
2. All sub delegations made by the Director of Environments and Housing within the scheme are sub-delegated to officers of suitable experience, competency and seniority.

Recommendations

The Director of Environment and Housing is requested to approve amendments the sub-delegation scheme as set out in the attached report. Purpose of this report

- 1 To request the Director's approval to alter the job titles from Partnership Manager to Housing Manager (Income Recovery) to sub-delegate responsibility for the signing of court documents: rental possessions for secure and introductory tenancies; warrant applications and leave to issue cases where the court order is over six years old, and applications to fix a date for possession, in the Housing Manager (Income Recovery) absence, to include additional officers, namely the Income Services Manager, The Head of Neighbourhood Services, and Housing Manager (Income Improvement)

2 Background information

- 2.1 Historically, the Housing Manager (income Recovery) within Environment and Housing has been responsible for the signing of the above documents, and this process has further been sub-delegated to the Chief Housing Officer (see report of 12 May 2014). This process is sub-delegated to an additional person only; the recommendation would be to permit further officer within Environment and Housing to sign cases, to prevent possible delays in processing cases
- 2.2 As contained within Article 14 of the Constitution: The Director of Environment and Housing has delegated the power to provide authentication of Documents for legal proceedings – To sign documents which are a necessary step in legal proceedings – the terms and conditions column states:- to issue particulars of claim for rent arrears and warrant applications.

In addition the Officer Delegation Scheme (Executive Functions) authorizes the ACE(CG) to act as Solicitor to the Council and to take any action intended to give effect to a decision of the Executive or an officer, including the commencement, defence, withdrawal or, settlement of proceedings etc. ACE(CG)'s sub delegation scheme makes the following provision in this regard:-

The Chief Legal, Licensing and Registration Officer is delegated the power to act as Solicitor to the Council and the power to authorize Council officers to conduct legal proceedings in Court.

The Director of Environment and Housing has delegated the power to take any action intended to give effect to a decision of the Executive or an officer, including the commencement, defence, withdrawal or settlement of proceedings – the terms and conditions column states:- to issue particulars of claim for rent arrears and warrant applications; and to complete standard shop tenancies only.

- 2.3 The N5 Claim form for the possession of property does state “I am duly authorized by the Claimant to sign this statement.”
- 2.4 Since early 2006, the courts recommended the use of duty solicitors to assist the defendants with the court application for possession, and as a consequence the courts and solicitors have become more aware of who has the right to address the judges, and are questioning Neighbourhood Services Officer (formerly the Paralegal Officer) more often as to their employment status and rights of audience. It may only be a matter of time before the issue around authorization to sign such court particulars will be addressed by the duty solicitors, and without this authorization it could jeopardize the whole arrears recovery process.
- 2.5 Whilst we have addressed the rights of audience issues with the courts, this is of no bearing if the Income Recovery Team (Paralegal) were to be found to have no authorized officer signing the relevant court documents.

3 Main issues

3.1 Financial Risk

3.2 Failure to process cases to court on time will have a potential effect on the rental income

3.3 Corporate Considerations

3.1 Consultation and Engagement

3.1.1 The decision to amend the sub-delegation scheme does not require public consultation or engagement

3.2 Equality and Diversity / Cohesion and Integration

3.3 There are no implications for equality and diversity or cohesion and integration arising from the amendments recommended in this report.

3.4 Council policies and City Priorities

3.5 Principle 2 of the Code of Corporate Governance states that the Council will have clear responsibilities and arrangements for accountability. In order to achieve this the Council needs up to date and accurate schemes of delegation executive and council responsibilities to Directors and other appropriate officers.

3.6 Resources and value for money

3.6.1 The risk to the authority in being challenged for non-compliance to case law on the signing and authorisation of rental possession cases is a risk, so therefore we need to have a clear sub-delegation authority to minimise these risks.

3.7 Legal Implications, Access to Information and Call In

3.7.1 We are required under the constitution to ensure that there are appropriate delegations to suitably qualified posts. This report has been prepared to comply with this process and to protect any challenge brought on the basis that an officer who signs the court paperwork was not authorized under the constitution to do so.

3.8 Risk Management

3.8.1 Ensuring the Director of Environment and Housing scheme is kept up to date reduces the risk of decisions being made without the correct authority.

4 Conclusions

- 4.1 The Housing Manager (Income Recovery) along with the Income Services Manager, have discussed this matter, and feel it would be more appropriate and less likely to delay the process to have additional personnel able to sign the relevant court documents.

5 Recommendations

- 5.1 The Director of Environments and Housing agrees to the amendments stated in 1 of this report to ensure smooth transition for the continuity of the rent arrears process thereby reducing the risk to the process.

6 Background documents¹

- 6.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.