

**Executive Member for Housing and Safer  
Neighbourhoods Decision Session**

**25 August 2015**

Report of the Assistant Director of Housing and Community Safety

**Alterations to the Temporary Accommodation Agreement**

**Summary**

- 1 The Executive Member is asked to approve the changes to the temporary accommodation agreement in light of legal advice and changes in case law.

**Recommendations**

2. The Executive Member is asked to approve  
  
Option 2 to make the changes to the temporary accommodation agreement for existing and future residents

Reason: This will enable the service to manage temporary accommodation well and efficiently, to the benefit of the customers and the staff in the service. This will reduce wasteful use of staff time in contesting legal arguments in situation where customers should have left the site.

**Background**

- 3 Temporary accommodation is for customers who are homeless and in priority need, this housing is provided whilst their circumstances are investigated. If the council has a long term duty then they remain in temporary accommodation until duty is discharged to appropriate accommodation.
- 4 Recent case law relating to homeless accommodation means that the existing agreement needs to be updated to take advantage of the case law.
- 5 Case Law: (LB Newham v LB Lewisham s188 notice to vacate only required) allows the council to ask a customer to leave if they

are breaching their accommodation conditions provided that this is prior to City of York Council (CYC) accepting a full decision to house. The precedent set by this case law means that the council is entitled to ask a customer to leave without needing to take the case to court, or to apply for a bailiff's warrant.

- 6 External legal representatives are challenging CYC when a customer is asked to leave without a court order which is preventing the council from exercising their legal right. The challenges received so far are based on the existing wording of the temporary accommodation agreement.
- 7 Advice from the council's legal team is that we can amend this agreement in order to reduce or eliminate these challenges in future, which would enable the council to follow the legal process established in case law.

Advice from barrister at Zenith Chambers indicates that changes in case law (LB Newham v LB Lewisham s188 notice to vacate only required) would allow the council to evict customers who pose high risk to staff and other residents without a court order (providing that a S193 duty to house is not in operation) preventing a lengthy court case during which high risk situations could occur for both staff and other residents. It is a requirement of all landlords that proportionality of the action and the impact of this on the customer is taken into account prior to any legal action

- 8 City of York Council employees do not lightly carry out evictions and only do so where it is absolutely necessary but these delays are causing a lot of extra work for staff, cost an awful lot of money especially where we have had to consult or engage a barrister which is becoming more common. This is also causing blockages in temporary accommodation preventing us from moving customers on.

### **Consultation**

- 9 Consultation has taken place with the following and all comments have been considered.

Support Workers  
Homeless and Supported Housing Managers  
CYC Legal Team  
Barrister at Zenith Chambers

## **Options**

- 10 Option 1 to leave the temporary accommodation agreement as it is.
- 11 Option 2 to make the changes as requested to the temporary accommodation agreement for existing and future residents of temporary accommodation

## **Analysis**

- 12 Option 1: To leave the Temporary Accommodation Agreement as it currently is. The challenges that we are currently receiving with regard to asking customers to vacate their accommodation or evicting customers will continue. This will inevitably cost the authority more and more as the legal arguments involved can be very complex and therefore require significant input from legal professionals, as well as housing staff. As long as customers who are not entitled to accommodation continue to reside there they block the accommodation for those who are newly homeless. In addition this can mean that rent arrears increase, and that nuisance or threatening behaviour continues. This can compromise the safety of staff and other residents who can be very vulnerable, and include young children.
- 13 Option 2: To make the changes to the Temporary Accommodation Agreement. The significant change to the TA agreement is that we have changed the 28 days notice to vacate to notice to vacate which may be less than the normal 28 days under extreme circumstances such as threats to life. This is to protect both staff and customers from high risk.

The changes will enable the council to give reasonable notice to customers (normally 28 days but can be shorter in exceptional circumstances) and then reasonably expect them to leave without lengthy and expensive court cases.

This process was followed immediately following the change in case law and the support team were successful in ensuring that customers left on the day their notice expired, without any adverse incidents. Therefore making these changes would enable support staff to manage the accommodation more efficiently and appropriately. This would also reduce the risk of anti-social

behaviour or threatening behaviour on site, which would benefit all customers and staff.

- 14 The temporary accommodation agreement has remained substantially the same in terms of the rights and responsibilities of customers. Therefore the customers will continue to receive a high quality service from housing and support.

### **Council Plan**

- 15 **Protect Vulnerable People:** temporary accommodation houses a wide range of people who are vulnerable in a variety of ways. An appropriate temporary accommodation agreement in place will ensure that this accommodation can be managed well and efficiently to benefit the vulnerable customers living there.

### **Implications**

**Financial:** – There will not be a direct budget saving as a result of these changes, however this will prevent staff resources from being used unnecessarily to manage cases which should not need to go to court. An External barrister can cost for advice between £300 and £600 and for an all day court case between £1000 and £1500

**Human Resources (HR):** Support staff have raised concerns regarding their safety on site, partly as a result of the time it can take to remove customers from site when they pose a risk to staff and other customers. Therefore Option 2 would help to reduce staff anxieties and prevent a staff grievance over this matter in future.

**Equalities:** A community will be required

**Legal:** A representative from the CYC legal team who specialises in housing law has been consulted and they in turn have consulted an external barrister who specialises in Housing Law.

**Crime and Disorder:** There may be a reduction in the need to call out police to address issues on site if customers can be given notice to leave the site in a timely matter.

**Information Technology (IT) – none**

**Property: None**

**Other: None**

## Risk Management

16 If the amendments to the agreement are not made the ability of the service to act quickly without redress to legal action will not be possible and the authority will face costly legal fees defending decision.

### Author:

Ann-Marie Douglas  
Temporary  
Accommodation, Housing,  
Tel No. 554122

### Chief Officer Responsible for the report:

Steve Waddington  
Assistant Director CANS

Report  
Approved



Date 13/08/15

**Specialist Officer Implications: None**

**Wards Affected:** List wards or tick box to indicate all

All

**For further information please contact the author of the report**

### Abbreviations

CYC - City of York Council

### Annex A

Temporary Accommodation Agreement

### Annex B

Community Impact Assessment