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# NOTICE OF MEETING

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## CABINET MEMBER FOR HOUSING

**TUESDAY, 14 JULY 2015 AT 5.30 PM**

## EXECUTIVE MEETING ROOM - THE GUILDHALL - FLOOR 3

Telephone enquiries to Joanne Wildsmith, Democratic Services, Tel: 9283 4057  
Email: [joanne.wildsmith@portsmouthcc.gov.uk](mailto:joanne.wildsmith@portsmouthcc.gov.uk)

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## CABINET MEMBER FOR HOUSING

Councillor Steve Wemyss (Conservative)

### Group Spokespersons

Councillor Stuart Potter, UK Independence Party

Councillor Yahiya Chowdhury, Labour

Councillor Matthew Winnington, Liberal Democrat

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(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.**

## AGENDA

**1 Apologies for Absence**

**2 Declaration of Interests**

**3 Hawthorn Crescent Balconies (Pages 1 - 6)**

The report by the Head of Property & Housing seeks permission to go out to tender and appoint a contractor to undertake planned maintenance works to 8 blocks of flats located within Hawthorn Crescent, Cosham. The works are required to ensure the safety and integrity of the buildings, reduce their on-

going maintenance and improve the living environment for residents.

**RECOMMENDED:**

- (1) That approval be given to tender the works based on a budget estimate of £1 million, inclusive of fees.**
- (2) That following a full tender evaluation authority to enter into contract with the preferred bidder is delegated to the Director of Property and Housing.**

**4 Admiral Blocks Refurbishment (Pages 7 - 14)**

The report by the Head of Property & Housing seeks permission to go out to tender and appoint a contractor to undertake planned maintenance works to 7 blocks of flats in the Portsea area of Portsmouth. The works are required to ensure the integrity of the buildings, reduce their on-going maintenance and improve the living environment for residents.

**RECOMMENDED:**

- (1) That approval be given to tender the works based on a budget estimate of £1.65 million, inclusive of fees.**
- (2) That following a full tender evaluation authority to enter into contract with the preferred bidder is delegated to the Director of Property and Housing.**

**5 Retaliatory Evictions - notice of motion - Deregulation Act 2015 and the implications to the private rented sector (Pages 15 - 20)**

The purpose of the report by the Head of Property and Housing is to consider a motion referred from Council concerning retaliatory evictions in the private rented housing sector. On 17<sup>th</sup> March 2015 Council referred to Housing Cabinet a motion proposed by former Councillor Michael Andrewes and seconded by former Councillor Leo Madden concerning retaliatory evictions in the private rented housing sector.

**RECOMMENDED that the Cabinet Member for Housing:**

- (1) Agrees to use Flagship to highlight and publicise legislative changes designed to prevent retaliatory evictions.**
- (2) Asks officers to work with tenants and landlords to practically implement the changes and improvements to tenants' rights on retaliatory evictions when they become law on 1<sup>st</sup> October 2015.**

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# Agenda Item 3



Portsmouth  
CITY COUNCIL

Agenda item:

**Title of meeting:** Cabinet Member for Housing

**Date of meeting:** 14<sup>th</sup> July 2015

**Subject:** HAWTHORN CRESCENT BALCONIES

**Report by:** OWEN BUCKWELL – DIRECTOR OF PROPERTY AND HOUSING

**Wards affected:** Cosham

**Key decision:** Yes – Over £250,000

**Full Council decision:** No

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## 1. Purpose of report

- 1.1 To seek permission to go out to tender and appoint a contractor to undertake planned maintenance works to 8no blocks of flats located within Hawthorn Crescent, Cosham.
- 1.2 The works are required to ensure the safety and integrity of the buildings, reduce their on-going maintenance and improve the living environment for residents.
- 1.3 If approved, it is anticipated that the works could commence by April 2016.

## 2. Recommendations

**i That approval be given to tender the works based on a budget estimate of £1 Million, inclusive of fees.**

**li That following a full tender evaluation authority to enter into contract with the preferred bidder is delegated to the Director of Property and Housing.**

## 3. Background

- 3.1 All the properties are located within the Cosham Ward and were constructed in 1961.
- 3.2 The site contains a total of 76 properties within eight blocks of flats which are a mixture of one, two and three bedroom flats and maisonettes.
- 3.3 There are 21No leaseholders and 55No PCC residents that are located within all the blocks.

- 3.4 All of the blocks have been evaluated, a full building survey has been undertaken, defects identified and relevant proposals put forward to address the defects.
- 3.5 The main area of works relates to the removal of rotten timber fins that provide shading to private balconies. These structures require removal and it is proposed to install half glazed aluminium screens in these areas that will reduce future maintenance.
- 3.6 In addition to the works to the balcony fins, general repairs to the external and communal areas will be undertaken along with decorations to these areas as identified from the survey.

#### **4. Reasons for recommendations**

- 4.1 The works will ensure the integrity of the building fabric, help protect against future deterioration and reduce current levels of repair expenditure.
- 4.2 In particular the replacement of the balcony fins will eliminate the on-going costly repairs for this type of work as well as to remove the potential health and safety risk to the resident's.
- 4.3 The project will upgrade the aesthetic visual appearance of the blocks and will improve the communal environment.
- 4.4 The scheme will provide a better safer living environment for residents and maintain good quality accommodation for families in the city.

#### **5. Options considered and rejected**

- 5.1 An option considered and rejected was to remove the timber balcony fins and not replace them, only adapting the existing balcony structure as necessary. This option was rejected following initial resident consultation where it became apparent that many of the residents rely on the balcony fins to provide shelter and privacy to their balconies.
- 5.2 Other options relating to the removal of the fins and various configurations of replacement screens were put forward as part of the initial resident consultation, however the most popular option was the half glazed full screen.
- 5.3 Initial evaluation included all 18 blocks within Hawthorn Crescent, however the other blocks are configured differently and the survey identified that they were in a better condition. Undertaking work to all blocks at once the site would become too large, so it was decided to phase the work focusing on the blocks with the highest priority issues; hence this project will focus on all blocks with timber balcony fins that require replacement.

## **6. Duty to involve**

- 6.1 Thorough consultation will be undertaken with both residents and leaseholders of the properties.
- 6.2 Resident consultation was undertaken in March 2015 with those properties that have balconies that will be affected by the works. The results of the consultation were used to inform the balcony option chosen.
- 6.3 All leaseholders will be consulted at the Notice of Intent stage and Section 20 stages in accordance with the Commonhold and Leasehold Reform Act legislation. The Leasehold and Commercial team will make contact with all the leaseholders individually to discuss with them the works planned, their contribution to the costs and the various payment options that are available to them.
- 6.4 A planning application will be required to be submitted when all the residents and the local community will be consulted regarding the scheme.
- 6.5 All residents and leaseholders will be informed of the works prior to their commencement via letter and in-person visits where they will have the opportunity to discuss any issues with PCC and contractor staff.
- 6.6 PCC staff will remain in contact with residents during the works onsite to address any issues that may arise and following completion customer satisfaction surveys will be undertaken by a PCC Resident Liaison Officer in order to gain feedback as to how the service could be improved.

## **7. Implications**

- 7.1 It is considered that the works will have a positive impact by helping to maintain the properties whilst improving the visual appearance of the blocks and the surrounding area.
- 7.2 The works should have positive implications by ensuring that PCC maintains good quality housing that can easily be rented to meet demand for social housing in the area.
- 7.3 There is the potential for negative reaction from leaseholders due to the costs they will be required to pay for the works; however the Leasehold and Commercial team will work closely with the leaseholders to agree appropriate repayment plans.
- 7.4 There is potential for negative implication due to the disruption to residents during the works; however the project will be managed to minimise the impact of any disruption to residents during the project.
- 7.5 The work is subject to the normal legal risk relating to building work, the financial and technical competence of the chosen contractor and the disruption that the

work will cause to the occupiers generally. These will all be subject to existing risk control assessments and mechanisms for such work, as such the risks will be minimised before work commences.

## **8. Corporate Priorities**

- 8.1 The report and the planned maintenance works will contribute to the following corporate priorities.
- 8.2 Shaping the future of Portsmouth, a strategy for growth and prosperity, action No.16, to improve the housing stock including carbon emissions.
- 8.3 Shaping the future of housing, a strategic plan for Portsmouth for better housing and health. The maintenance of Portsmouth's stock of residential properties is a priority as detailed in theme 5.

## **9. Equality impact assessment (EIA)**

- 9.1 An EIA is not needed for this project. The project will not affect any equality group unequally and this no adverse impact on people who belong to any of the equality groups. Residents who live in the blocks affected by the project will be consulted on the work and specific needs will be address so that tenants with protected characteristics can be fully involved in the consultation. The project is expected to have positive outcomes for all current and future tenants.

## **10. City Solicitor's comments**

- 10.1 The legal risks referred to at paragraph 7.5 above will be addressed through a detailed procurement process in compliance with the Council's Contracts Procedure Rules and managed under the terms of the resulting construction works contract.
- 10.2 Under Part 2, Section 3 of the City Council's Constitution (responsibilities of the Cabinet) and further in accordance with the Scheme of Delegations at Appendix A to the Executive Procedure Rules in Part 3 of the Constitution, the Cabinet Member for Housing has the authority to approve the recommendations set out in this report.

## **11. Director of Finance's comments**

- 11.1 This scheme forms part of line 11, Major Repairs Dwellings, within the Housing Investment Programme which was formally approved by Full Council on 10 February 2015.
- 11.2 It is anticipated that the complete scheme, which will be funded from Housing Revenue Account Contributions and Leaseholder Contributions, will ensure the ongoing structural integrity of the blocks and help protect against future deterioration, reduce ongoing cleaning and maintenance costs and maintain their letability for the next 30 years.



.....  
Signed by:  
**Owen Buckwell – Director of Property and Housing**

**Appendices:**

Appendix A: Block List

**Background list of documents: Section 100D of the Local Government Act 1972**

NIL

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by the Cabinet Member for Housing on 14<sup>th</sup> July 2015

.....  
Signed by:  
**Councillor Steve Wemyss**

## Appendix A - Block List

HAWTHORN CRESCENT (378-388)  
HAWTHORN CRESCENT (390-400)  
HAWTHORN CRESCENT (393-403)  
HAWTHORN CRESCENT (402-412)  
HAWTHORN CRESCENT (405-415)  
HAWTHORN CRESCENT (414-424)  
HAWTHORN CRESCENT (417-427)  
HAWTHORN CRESCENT (492-502)

# Agenda Item 4



Portsmouth  
CITY COUNCIL

Agenda item:

**Title of meeting:** Cabinet Member for Housing

**Date of meeting:** 14<sup>th</sup> July 2015

**Subject:** ADMIRAL BLOCKS SITE REFURBISHMENT

**Report by:** OWEN BUCKWELL – DIRECTOR OF PROPERTY AND HOUSING

**Wards affected:** Charles Dickens

**Key decision:** Yes – Over £250,000

**Full Council decision:** No

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## 1. Purpose of report

- 1.1 To seek permission to go out to tender and appoint a contractor to undertake planned maintenance works to 7no blocks of flats in the Portsea area of Portsmouth.
- 1.2 The works are required to ensure the integrity of the buildings, reduce their on-going maintenance and improve the living environment for residents.
- 1.3 If approved, it is anticipated that the works could commence by January 2016.

## 2. Recommendations

- i That approval be given to tender the works based on a budget estimate of £1.65 Million, inclusive of fees.
- ii That following a full tender evaluation authority to enter into contract with the preferred bidder is delegated to the Director of Property and Housing.

## 3. Background

- 3.1 All the properties are located within the Charles Dickens Ward and were built between 1955 and 1958.
- 3.2 The site contains a total of 108 properties within seven blocks of flats which are a mixture of one, two and three bed flats and maisonettes.
- 3.3 There are nine leaseholders that are located within four of the seven blocks of flats. The remaining three blocks of flats are fully owned by PCC. There are 99No properties that are let to PCC residents.

- 3.4 All of the blocks have been evaluated, a full building survey has been undertaken, defects identified and relevant proposals put forward to address the defects.
- 3.5 The main area of work relates to the roof covering of the blocks. From inspection the clout nails present have corroded and there are numerous instances where tiles have slipped and require repair. The consequence is that regular roofing repairs are required to all the blocks, particularly during the winter months; it is therefore proposed to replace the existing roof covering.
- 3.6 In conjunction with the roof covering being replaced the opportunity is being taken to install Photo Voltaic (PV) panels to the roofs.
- 3.7 A Fire Risk Assessment has been undertaken to all blocks and a number of recommended planned actions have been made.

It is proposed to install LED emergency lighting to the common parts of all blocks along escape route and install new composite fire doors where necessary to relevant properties at some of the blocks.

- 3.8 In addition to the above general repairs to the external and communal areas will be undertaken along with decorations to these areas as identified from the survey.

#### **4. Reasons for recommendations**

- 4.1 The works will ensure the integrity of the building fabric, help protect against future deterioration and reduce current levels of repair expenditure.
- 4.2 In particular the replacement of the roof covering will eliminate the on-going costly repairs for this type of work as well as to remove the potential risk of damage to the resident's properties or safety risk from falling tiles.
- 4.3 The installation of Photo Voltaic (PV) panels will provide an income stream to the Housing Revenue Account (HRA) that is particularly cost effective as it will be undertaken in conjunction with the roof replacement whilst the scaffold access to the roof is already available. The payback period for the investment of undertaking the PV installation will be less than 4 years.
- 4.4 The project will upgrade the aesthetic visual appearance of the blocks and together with the increased lighting levels in the stairwells will improve the communal environment.
- 4.5 The scheme will provide a better living environment for residents and maintain good quality accommodation for families in the city.

## **5. Options considered and rejected**

- 5.1 Maintaining the existing roof coverings through day to day repairs was considered and rejected as it would lead to higher overall repair costs caused by needing to erect scaffold on a hap hazard basis to deal with leaks when they occur as a opposed to gaining economies of scale savings through procuring all of the works under one contract.

It was also rejected due to the potential health and safety risk should tile fixings fail and tiles come off the building as well as increased resident disruption through on-going leaks and the lead in time of erecting scaffold in order to undertake repairs.

- 5.2 Not including Photo Voltaic (PV) panels was considered and rejected as the PV panels will provide free communal electric during the day and an income through the feed in tariff. The cost of installing the PV panels is most cost effective when undertaken in conjunction with the roof replacement when the scaffold access is already erected, this will reduce the payback period for the PV panels.

## **6. Duty to involve**

- 6.1 Thorough consultation will be undertaken with both residents and leaseholders of the properties.
- 6.2 An initial consultation has been undertaken with residents of ground floor properties over potential changes to the front garden and fencing present to these blocks.
- 6.3 All leaseholders will be consulted at the Notice of Intent stage and Section 20 stages in accordance with the Commonhold and Leasehold Reform Act legislation. The Leasehold and Commercial team will make contact with all the leaseholders individually to discuss with them the works planned, their contribution to the costs and the various payment options that are available to them.
- 6.4 Planning have been consulted and a planning application is not required as the work being undertaken is permitted development.
- 6.5 All residents and leaseholders will be informed of the works prior to their commencement via letter and in-person visits where they will have the opportunity to discuss any issues with PCC and contractor staff.
- 6.6 PCC staff will remain in contact with residents during the works onsite to address any issues that may arise, after completion of the project, customer satisfaction surveys will be undertaken by a PCC Resident Liaison Officer in order to gain feedback as to how the service could be improved.

## **7. Implications**

- 7.1 It is considered that the works will have a positive impact by helping to maintain the properties whilst improving the visual appearance of the blocks and the surrounding area.
- 7.2 The works should have positive implications by ensuring that PCC maintains good quality housing that can easily be rented to meet demand for social housing in the area.
- 7.3 There is the potential for negative reaction from leaseholders due to the costs they will be required to pay for the works; however the Leasehold and Commercial team will work closely with the leaseholders to agree appropriate repayment plans.
- 7.4 There is potential for negative implication due to the disruption to residents during the works; however the project will be managed to minimise the impact of any disruption to residents during the project.
- 7.5 The work is subject to the normal legal risk relating to building work, the financial and technical competence of the chosen contractor and the disruption that the work will cause to the occupiers generally. These will all be subject to existing risk control assessments and mechanisms for such work, as such the risks will be minimised before work commences.

## **8. Corporate Priorities**

- 8.1 The report and the planned maintenance works will contribute to the following corporate priorities.
- 8.2 Shaping the future of Portsmouth, a strategy for growth and prosperity, action No.16, to improve the housing stock including carbon emissions.
- 8.3 Shaping the future of housing, a strategic plan for Portsmouth for better housing and health. The maintenance of Portsmouth's stock of residential properties is a priority as detailed in theme 5.

## **9. Equality impact assessment (EIA)**

- 9.1 An EIA is not needed for this project. The project will not affect any equality group unequally and this has no adverse impact on people who belong to any of the equality groups. Residents who live in the blocks affected by the project will be consulted on the work and specific needs will be addressed so that tenants with protected characteristics can be fully involved in the consultation. The project is expected to have positive outcomes for all current and future tenants.

**10. City Solicitor's comments**

- 10.1 The legal risks referred to at paragraph 7.5 above will be addressed through a detailed procurement process in compliance with the Council's Contracts Procedure Rules and managed under the terms of the resulting construction works contract.
- 10.2 Under Part 2, Section 3 of the City Council's Constitution (responsibilities of the Cabinet) and further in accordance with the Scheme of Delegations at Appendix A to the Executive Procedure Rules in Part 3 of the Constitution, the Cabinet Member for Housing has the authority to approve the recommendations set out in this report.

**11. Director of Finance's comments**

- 11.1 This scheme forms part of line 11, Major Repairs Dwellings, within the Housing Investment Programme which was formally approved by Full Council on 10 February 2015.
- 11.2 The complete scheme, which will be funded by Housing Revenue Account Contributions and Leaseholder Contributions, will ensure the ongoing structural integrity of the blocks and help protect against future deterioration, reduce ongoing cleaning and maintenance costs and maintain their letability for the next 30 years.

.....  
Signed by:  
**Owen Buckwell – Director of Property and Housing**

**Appendices:**

Appendix A: Block List

**Background list of documents: Section 100D of the Local Government Act 1972**

NIL

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by the Cabinet Member for Housing on 14<sup>th</sup> July 2015

.....  
Signed by:  
**Councillor Steve Wemyss**



**Appendix A: Block List**

BENBOW HOUSE (1-16)  
CALDER HOUSE (1-10)  
COCHRANE HOUSE (1-24)  
CODDRINGTON HOUSE (1-10)  
CRADDOCK HOUSE (1-16)  
DRAKE HOUSE (1-16)  
FROBISHER HOUSE (1-16)

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# Agenda Item 5



Portsmouth  
CITY COUNCIL

Agenda item:

**Title of meeting:** Cabinet Member for Housing

**Date of meeting:** 14<sup>th</sup> July 2015

**Subject:** Deregulation Act 2015 and the implications to the Private rented Sector

**Report by:** Owen Buckwell – Head of Property and Housing Service

**Wards affected:** All

**Key decision:** No

**Full Council decision:** No

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1. **Purpose of report**

1.1 To consider a motion referred from Council concerning retaliatory evictions in the private rented housing sector

2. **Recommendations**

2.1 **To agree to use Flagship to highlight and publicise legislative changes designed to prevent retaliatory evictions.**

2.2 **To ask officers to work with tenants and landlords to practically implement the changes and improvements to tenants' rights on retaliatory evictions when they become law on 1<sup>st</sup> October 2015.**

3. **Background**

3.1 On 17<sup>th</sup> March 2015 Council referred to Housing Cabinet a motion proposed by Councillor Michael Andrewes and seconded by Councillor Leo Madden concerning retaliatory evictions in the private rented housing sector.

3.2 The motion noted:

- The large number of Portsmouth residents who rent in the private sector.
- The need to protect residents who rent in the private sector from "retaliatory evictions" where they have asked for a legitimate repair and the landlord then evicts them.
- That the vast majority of private landlords are responsible and the council has a long and constructive history of working with them for their and their tenants benefit.
- The increasingly widespread practice of "retaliatory evictions" or eviction when the tenant has asked for a legitimate repair to be made.

3.3 The motion asked the Council to:

- support the amendments put in the Deregulation Bill by the Government to prevent retaliatory evictions, following the private members bill by Sarah Teather MP.
- ask the Chief Executive to write to Portsmouth MPs asking them to support the amendments in the last parliamentary stages.
- ask the Cabinet to highlight and publicise the changes in a future issue of Flagship and ask the Council's officers to work with tenants and landlords to practically implement the changes and improvements to tenants' rights on retaliatory evictions and other changes when they become law.

#### 4. **Reasons for recommendations**

4.1 The private rented housing sector in Portsmouth comprises about 25% of the housing stock and accommodates approximately 55,000 residents.

4.2 The Deregulation Bill has passed through Parliament and will come into effect on 1<sup>st</sup> October 2015. Changes affecting private rented housing sector are set out in Appendix A.

4.3 Whilst detailed guidance on the legislation is awaited it is difficult to be certain about the implications on the private rented housing sector, although it is not anticipated that it will result in landlords leaving the market.

4.4 It is likely that the changes will result in increased demand on the Private Sector Housing Team, as indicated at Appendix A.

#### 5. **Equality impact assessment (EIA)**

5.1 The pre impact assessment has indicated that a full impact assessment is not required.

#### 6. **City Solicitor's comments**

6.1 The supply of good quality, affordable privately rented accommodation is essential to meet local housing need. The legal powers and obligations of the Council to ensure private landlords meet these standards are contained in a variety of legislative acts and orders and the new provisions set out in the Deregulation Act 2015 will further assist the Private Sector Housing Team.

6.2 It is within the cabinet member's power to make the recommendations suggested.

**7. Head of Finance comments**

7.1 The recommendations contained within this report can be delivered from within existing service cash limits, and are not envisaged to require any additional resource.

.....  
Signed by:  
Owen Buckwell – Director of Property and Housing Service.

**Appendices:**

Appendix A Deregulation Bill - Summary of Changes relating to Retaliatory Eviction

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Deregulation Act 2015 Chapter 20.	<a href="http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted">http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for Housing on 14<sup>th</sup> July 2015.

.....  
Signed by:  
Councillor Steve Wemyss  
Cabinet Member for Housing

## **APPENDIX A**

### Summary of Deregulation Act 2015 relating to Retaliatory Eviction and specific areas affecting the Private Rented Housing Sector.

The Deregulation Bill 2015 was given Royal Assent on Friday 27th March 2015. With the main points of consideration:

#### **1. When a Section 21 notice will be invalid:**

A Section 21 notice (Housing Act 1988) served by a landlord enables them to regain possession of a property at the end of an assured short hold tenancy.

Presently a Section 21 Notice is invalid if served before the tenant's deposit has been protected and the tenant has not been provided with the correct documents prescribed in the deposit protection legislation. The Deregulation Act 2015 now introduces additional requirements for the landlord to comply to in order to serve a valid Section 21 Notice.

Crucially these relate to the condition of the property - to prevent against 'retaliatory evictions.

#### **Deregulation Act 2015.**

Section 33(1):

States that where a relevant notice is served, a section 21 notice may not be given

- (a) within 6 months beginning with the day of service of the relevant notice or
- (b) where the operation of the relevant notice has been suspended, within 6 months beginning with the day on which the suspension ends.

Section 33(2):

A section 21 is invalid, where before a Section 21 is served, the tenant made a complaint to the landlord regarding the condition of the dwelling house and at the time of the complaint and the landlord didn't:

- provide a response to the complaint within 14 days beginning with the day on which the complaint was given,
- provided a response to the complaint that was an adequate response.

Adequate response under this section would be:

- provide a description of the action that the landlord proposes to take to address the complaint, and
- sets out a reasonable timescale for the action to be taken.

### **Making a complaint to the Private Sector Housing Team.**

The tenant can involve the Private Sector Housing Team (PSHT), by them making a complaint about the same or substantially the same subject matter as the complaint to the landlord.

If following an investigation, the best course of action is to serve a relevant notice, in which a relevant notice means:

- a notice served under section 11 of the Housing Act 2004 (improvement notices relating to category 1 hazards),
- a notice served under section 12 of that Act (improvement notices relating to category 2 hazards), or
- a notice served under section 40(7) of that Act (emergency remedial action)

Any section 21 notice served after the relevant notice has been issued would be invalid.

It also appears that a tenant can complain directly to the authority or if the authority is being pro-active in inspecting properties in their area and if a relevant notice is served, then a section 21 cannot be served. However, we are still waiting guidance to clarify this point.

### **Other relevant points:**

There are some safeguards aimed at preventing both the tenants abusing the new powers and landlords finding they are unable to manage their property assets. These include:

- A tenant cannot rely on disrepair where the disrepair is caused by the tenant.
- A landlord can still serve a section 21 notice, if the property is genuinely being marketed for sale.

The provisions do not apply if a lender is seeking vacant possession to sell, provided the mortgage was granted prior to the commencement of the tenancy. At present, the new provisions will only apply to tenancies created after the provisions of the new Act come into force.

Existing tenants will not therefore be able to rely on these provisions at the present time. However, landlords should note that the Act does provide that the provisions will apply to all assured short hold tenancies 3 years after the provisions come into force

### **Implications to the Private Sector Housing Team:**

The PSHT could be under more pressure from tenants to use the enforcement powers available to ensure that they can stay in the property.

The Housing Act 2004, does state that the authority MUST take the most appropriate enforcement action to remove high risk hazards, but our current policy allows officers to work with landlords, prior to the service of any notice.

If we were compelled to serve more notices, then this would increase pressure on officers, increasing the time in dealing with specific complaints; more challenges to the notice through the first-tier tribunal and more prosecutions taken.

## **2. Others areas under this clause:**

### **Providing prescribed legal requirements:**

Section 38 of the Act inserts a new section 21A Housing Act 1988. This will prevent a section 21 notice from being service if the landlord is in breach of certain legal requirements. Secondary legislation is required to provide the detail of this but it is likely to include gas safety certificates and providing EPCs. Meeting the requirements belatedly may still enable a section 21 to be served.

### **Implications to the Private Sector Housing Team:**

The Private Sector Housing Team already deals with the gas and EPC information and this should not be a major problem.

### **Rent repayment:**

Where a section 21 notice 'ends' a tenancy other than at the end of a period of the tenancy and rent for that period has been paid in advance, the landlord must pay the rent back to the tenant, pro rata for each full day the property is unoccupied.

All of this will only apply to new tenancies granted on or after the date of commencement. After three years from commencement, it will apply to all ASTs.

### **Timing of serving a section 21 notice.**

No section 21 notice can be served within the first 4 months of the short hold tenancy, thus ending the all too widespread practice of serving a section 21 at the time the tenancy agreement is signed (though I'd still say that was probably caught by the deposit rules). The proposals also make it clear that possession proceedings cannot begin before 6 months from the start of the tenancy.

### **Summary of Implications of the legislation for the Private Sector Housing Team:**

Overall the new areas covered within the Deregulation Bill, will provide tenants with more security from poor landlords, but it will also create more pressure on the Private Sector Housing Team in dealing with the possible increase in complaints and a greater demand on taking enforcement action against landlords.

But importantly, the new legislation should not cause major damage to the private rented market, with landlords moving out from the market due to this specific legislation.