

 EXECUTIVE 10 JUNE 2009		Agenda Item No.
Title	Scheme of Delegation	
For further information about this report please contact	Dave Ward	
Service Area	Housing and Property Services	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	Yes – specific addresses are referred to in the appendix to the report.	
Date and meeting when issue was last considered and relevant minute number	Not applicable.	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes Ref 194

Officer/Councillor Approval		
With regard to officer approval all reports <u>must</u> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Relevant Director	6.5.09	Bill Hunt
Chief Executive	6.5.09	Chris Elliott
CMT	21.5.09	
Section 151 Officer	6.5.09	Mike Snow
Legal	6.5.09	Peter Oliver
Finance	6.5.09	Sandra Jones
Portfolio Holder(s)	6.5.09	Cllr Mrs Grainger
Consultation Undertaken		
None undertaken.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 This report concerns the Scheme of Delegation contained within the Council's Constitution.
- 1.2 The report includes a recommendation that Executive note decisions made under existing delegated powers.

2. RECOMMENDATION

- 2.1 It is recommended that the Scheme of Delegation is amended to include permission for the Head of Housing and Property Services, Housing Manager, Tenancy Enforcement Officers, Senior Housing Officer and Housing Officers to serve;

- Notice of Seeking Possession and Notice of Demotion under section 83 of the Housing Act 1985 in respect of Secure Tenancies.
- Notice of Possession Proceedings and Notice of Extension under section 125 of the Housing Act 1996 in respect of Introductory Tenancies.
- Closure Notice under section 1 of the Anti-Social Behaviour Act 2003.
- Family Intervention Tenancy Notice under the provisions of the Housing and Regeneration Act 2008.

In relation to enforcement action where tenants are in breach of the Council's Conditions of Tenancy.

- 2.2 That Executive note the decision made under G(17) of the existing Scheme of Delegation to authorise the service of a Notice of Seeking Possession in those cases listed in Appendix 1. .

3. REASONS FOR THE RECOMMENDATION

- 3.1 The Council's Scheme of Delegation is currently defective because authority to serve notices relating to breaches of Conditions of Tenancy does not form part of the Scheme of Delegation included in the Council's Constitution. The Scheme of Delegation requires amendment to include permission for officers of the Housing and Property Services Department to serve notices in relation to enforcement action.
- 3.2 The defect in the Scheme of Delegation came to light during recent Court proceedings taken by the Council against a tenant because of anti-social behaviour committed by members of the tenant's household. Although the Council succeeded in that case, others may fail because of the defect.
- 3.3 In order for officers to take effective action against those tenants who are deemed to be in breach of the Conditions of Tenancy, officers require the necessary authorisation to serve notices in respect of this enforcement action. Such authorisation should, therefore, be granted to officers by the Executive and included in the Scheme of Delegation.
- 3.4 Under paragraph G (17) of the Scheme of Delegation the Chief Executive, in consultation with the relevant Strategic Directors, Head of Business Unit, Service Managers and Group Leaders (or in their absence Deputy Group Leaders) has the authority to deal with urgent items between meetings.

3.5 Since the defect in the Council's Scheme of Delegation came to light, the Chief Executive has considered the requirement for urgent action and approved the service of a Notice in respect of breaches of Conditions of Tenancy in three cases. These cases are listed in Appendix 1 of this report.

3.6 The Constitution provides for such urgent decisions to be made by the Chief Executive, after appropriate consultation with the Group Leaders, under section G(17) of the Scheme of Delegation "subject to the matter being reported to the Executive at its next meeting". This report therefore sets out the context and basis of these decisions. .

4. ALTERNATIVE OPTION CONSIDERED

4.1 There are no practical alternatives. Without the required authorisation included in the Scheme of Delegation, the validity of notices served by Council officers could be challenged and the Council's legal proceedings could fail if defended on that basis.

5. BUDGETARY FRAMEWORK

5.1 There are no budget implications. The service of notices is a routine aspect of housing management activity and is incorporated within to existing job descriptions. There are no implications, therefore, for salary grades.

6. POLICY FRAMEWORK

6.1 The various remedies available to address neighbor nuisance and anti-social behaviour are set out in the Council's Anti-Social Behavior Policy.

6.2 The process for recovering rent arrears and other charges is set out in the Council's Rent Arrears Policy and permission to serve notices and take action in this respect is already included in the Scheme of Delegation.

7. BACKGROUND

7.1 From time to time, the Council's officers are required to take action to address breaches of the Council's Conditions of Tenancy. Each new tenant signs and retains a copy of the Conditions of Tenancy when a new tenancy begins. A Notice is only served after the tenant has been advised that their actions may constitute a breach of the Conditions of Tenancy and appropriate written warnings have been issued and explained.

7.2 Notices may be served when tenants breach the Conditions in the following instances:

- Neighbour Nuisance and Anti-Social Behaviour.
- Persistent failure to maintain the property to a satisfactory standard.
- Deliberate damage caused to the property.
- Keeping animals in inappropriate circumstances.
- Under occupation as the result of a succession to tenancy.
- Failing to allow Council officers to enter the property after reasonable notice.
- Failing to occupy the property as a main or principal home.

- 7.3 Where the tenancy is a Secure Tenancy, a Notice is usually served under provisions of Section 83 of the Housing Act 1985. Where the tenancy is an Introductory Tenancy, a Notice is usually served under the provisions of Section 129 of the Housing Act 1996.

Appendix 1**Notices Served under Section G (17) of the Scheme of Delegation**

	Address	Form of Notice	Date Notice Served	Reason for Notice
Case 1	Flat 4 88 Masters Road Leamington Spa	Notice of Seeking Possession (Secure Tenancy) (NOSP)	16.03.09	Anti-Social Behaviour and damage to Council property.
Case 2	41 Napton Drive Leamington Spa	Notice of Seeking Possession (Secure Tenancy) (NOSP)	23.03.09	Anti-Social Behaviour
Case 3	89 Eden Court Leamington Spa	Notice of Proceedings for Possession (NOPP) Introductory Tenant	09.01.09	Anti-Social Behaviour