

BABERGH DISTRICT COUNCIL

FROM: Head of Revenues

REPORT NUMBER **E85**

TO: STRATEGY COMMITTEE

DATE OF MEETING 4 August 2005

REVENUES DIVISION – AUTHORISATION OF SERVICE MANAGERS TO ISSUE LEGAL NOTICES IN RESPECT OF UNPAID RENT.

1. **SUMMARY**

The Committee is requested to give delegated authority to the Revenues, Local Taxation and Benefits Managers within the Revenues Division to issue Notices Seeking Possession, Notices to Quit and Distress Warrants in the event of non-payment of rent payable to the Council. Currently that decision is delegated to the Head of Revenues, Solicitor to the Council, Corporate Director and Chief Executive. Extending the range of delegation in this way will improve the process for recovering unpaid rent and is consistent with other decisions made by the three service managers in the normal course of their duties.

2. **RECOMMENDATIONS**

- 2.1 That the Revenues Manager, the Local Taxation Manager and Benefits Manager are designated as posts authorised to issue Notices Seeking Possession, Notices to Quit and Distress Warrants in relation to the Council's housing and garage stock where a tenant has not met the terms of the tenancy in relation to the payment of rent.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications to the decision.

4. **KEY INFORMATION**

- 4.1 The Head of Revenues is currently the only officer within the Revenues Division authorised to instigate proceedings as the result of unpaid rent. Consequently in his absence the decision passes to a Corporate Director, the Solicitor to the Council or the Chief Executive.
- 4.2 Dependent upon availability that may create a short delay and in addition encroaches upon those officers' time, as with no immediate knowledge of the situation on an individual case, a degree of briefing is required prior to signing any document.
- 4.3 Extending the ability for certain officers within the Revenues Division to instigate proceedings is a more practical way of managing both the recovery process and the availability of officers to sign documents.
- 4.4 A Notice Seeking Possession (NSP) and a Notice To Quit (NTQ) are routine documents which instigate a process within the County Court for regaining possession of a property because of non-compliance with the terms of a tenancy agreement - in this case non-payment of rent. The final decision on any proceedings however, is made by a District Judge, having heard the Council's case and any response from the tenants concerned.

- 4.5 Similarly although the issue of a distress warrant to the Council's bailiff is in effect an instruction to remove goods in order to obtain payment that is only very rarely the actual outcome. The remedy is only used in those cases where it is believed that the tenant concerned has non essential assets, is not addressing his/her obligation to make payment and having used the process to focus their attention on the correct priority the practical outcome is a payment arrangement. In addition the bailiff works to a strict code of conduct which in the event of a potential removal of goods requires authorisation from the Council and ensures that the household's essential needs are protected.
- 4.6 Against that background the significance of who actually signs documents to initiate proceedings is not as great as might first appear, and the issue of documents of that nature is consistent with other responsibilities held by the three service managers within the Revenues Division. They routinely make decisions on significant issues once a recovery process has commenced, such as, suspending further action once the recovery process has commenced. That in practical terms carries as much, if not more, responsibility than simply starting the process. Consequently enabling them to make that initial decision is felt to be a sound approach.

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