

To: City Executive Board
Date: 3 July 2014
Report of: Head of Housing and Property
Title of Report: Revised Tenancy Agreement for Council Tenants

Summary and Recommendations

Purpose of report: To detail the proposals for the revision of the Council's secure tenancy agreement and to advise the Council of the outcomes of the consultations with tenants and other stakeholders on the proposed revisions to the Tenancy Agreement.

Key decision: No

Executive lead member: Cllr Scott Seamons, Board Member for Housing and Estate Regeneration

Policy Framework: Meeting Housing Need

Recommendation(s): That the City Executive Board:

1. Approve the Tenancy Agreement,
2. Authorise the Executive Director for Regeneration and Housing to introduce the new Tenancy Agreement with effect from September 2014 on behalf of the Council.

Appendices to report

- 1 - Summary of proposed revised tenancy conditions
- 2 - Consultation outcomes – summary of comments from tenants and other stakeholders
- 3 - Draft revised tenancy agreement

Introduction

- 1 Tenancy agreements form the basis of the relationship between landlord and tenant. They should reflect best practice and ensure that all legal and national policy requirements are met. The secure tenancy agreement sets out the Council's rights and responsibilities as a Landlord as well as the tenant's rights and responsibilities.
- 2 The Council is required by law to carry out regular reviews of the secure tenancy agreement (Housing Act 2004). The current tenancy agreement was issued in 2005. The last review took place in 2010 when it was agreed that it was fit for purpose so none of the terms required amendment.
- 3 Since 2010 there have been a number of significant changes to national policy that have an impact on the tenancy agreement. This includes the Housing and Regeneration Act 2011, the Localism Act 2011, Social Housing Fraud Act 2013, welfare reform and revised Right to Buy. In addition the housing landlord service has undergone a fundamental restructure, moving away from generic housing management roles to specialist teams across the Council. This means that there have been significant changes to procedures, including tenancy management, tenancy sustainment, antisocial behaviour and tenant involvement.
- 4 The terms of a secure tenancy can only be varied in accordance with the processes set down in the Housing Act 1985, Sections 102 and 103. This places a requirement on the Council to seek the opinion of all tenants through consultation and using a statutory notice of variation within a set timeframe.
- 5 A project team was set up to;
 - i. Review the existing terms of the secure tenancy.
 - ii. Identify any variations (add, revise or delete terms so as to reflect best practice, national policy and local requirements).
 - iii. Consult with all stakeholders – tenants, statutory bodies, Council members and officers
 - iv. Implement the revised tenancy agreement.

Proposal and Justifications

- 6 The final document will provide;
 - i. A modern tenancy agreement that reflects current best practice and ensures that all legal and national policy requirements are met.
 - ii. A set of terms and conditions that are robust to ensure tenancy management procedures can be delivered with confidence of the outcomes.
 - iii. A set of clear terms and conditions that are readily understood by all tenants.

Key Changes

- 7** New and revised clauses are introduced in relation to succession, housing fraud, health and safety, dogs, recycling, parking, data protection and access. The proposals also include strong statements about living in the community.

Succession

- 8** This change is required as a result of the Localism Act which restricts the legal right to succession of any new tenants from April 2012 to a spouse or partner; including same sex partners. However, the succession rights of all existing tenants will not change provided that: there has been no previous succession to the tenancy; and the succeeding family member has resided at the property for 12 months prior to the death of the tenant.
- 9** As the legislative position is now quite complex the proposed wording in the Tenancy Agreement aims to simply set out that succession is governed by the law; and that for those situations where there is no legal right to succeed detailed guidance is provided in the Council's Allocations Policy.
- 10** The Council will continue to consider each of the cases where there is no legal right of succession in accordance with that Policy. Consideration will be given for either a new tenancy of the property to be offered; or for support to be provided to help any family member(s) left in occupation to secure alternative suitable accommodation.

Housing Fraud

- 11** The new tenancy agreement will require photographic identification of new tenants. This will support the Council's efforts to eliminate housing fraud.
- 12** The proposals also make very clear statements about subletting rights and responsibilities.
- 13** Details of all the proposals are listed in Appendix 1 of the report.

Consultation Process

- 14** A consultation document outlining the proposed new Tenancy Agreement was sent to all tenants in April 2014 with the consultation period ending on 18th May 2014
- 15** A copy of the consultation document was placed on the Council's website and responses were invited through an article in the Tenants newsletter.
- 16** We followed the new approach to involvement detailed in the Tenant Involvement Strategy and worked with a task and finish group of tenant representatives. We met with the group of eight tenants at two focus meetings and corresponded by email and through the postal system. The meetings

were chaired by the Project Manager and supported by the Tenant Involvement Team.

- 17 The group was an integral part of the consultation process and took part in redrafting the terms and conditions as well as giving feedback to the final proposals before it went out for wider consultation.
- 18 In the process of developing the draft consultation document there was also extensive involvement from key stakeholders within the Council. This included officers from Legal Services, Rents Team, Direct Services, Tenancy Management, Tenant Involvement, Community Safety and Housing Needs.
- 19 The draft Tenancy Agreement was circulated to Council Members for comment on 10th April 2014. To date there have been no negative comments received back from Members.
- 20 The Office of Fair Trading issues guidance to ensure that any revisions are transparent and not considered unfair. A standard term is unfair 'if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer (tenant)'. Care has been taken to ensure that the terms do not create such an imbalance and to protect tenant's legal rights.
- 21 Members will want to note that if a tenant does not wish to accept their new Tenancy Agreement, their only option is to serve the Council with four weeks' notice to end their tenancy.

Results from the Consultation with Tenants:

- 22 All current tenants have now been consulted on the draft of the proposed changes to the Tenancy Agreement as part of the formal consultation process.
- 23 Of the 113 tenants who expressed an opinion on the proposed changes to the Tenancy Agreement;
 - a. 16 gave a positive response expressing their agreement with all the proposed changes,
 - b. 92 made general or no comment and,
 - c. 5 respondents expressed disagreement with some or all of the proposals.
- 24 As members may be interested in the type of comments received an analysis of the tenants' literal responses to the consultation has been included as Appendix 2.
- 25 Members should be aware that it became evident, when the literal responses were analysed, that some tenants did not fully understand what was being proposed. In order to address tenants concerns we have been contacting

everyone that used the consultation process as a means of raising a query to give a personal response to the matters that they have raised.

Further amendments

- 26 Members should be aware that we have carefully considered each of the comments made by the five tenants and do not intend to incorporate any further changes into the revised Tenancy Agreement.
- 27 The full draft of the revised tenancy agreement is included at Appendix 3.

Implications for local people and service users

- 28 Having an up to date and comprehensive Tenancy Agreement in place ensures that the tenants are fully aware of their rights and obligations. This in turn contributes to the maintenance of sustainable communities for the benefit of both the tenants and the wider community.

Level of Risk

- 29 Having a comprehensive Tenancy Agreement in place helps the Council to ensure that any breaches of the regulations can be progressed quickly to bring about a satisfactory resolution.
- 30 The greatest risk would arise if the proposed revisions to the Tenancy Agreement were not implemented as this may adversely impact on the ability of Landlord Services to manage tenancies effectively on the Council's behalf.
- 31 Further the Council may be exposed to costly litigation if the Tenancy Agreement is not updated to reflect the new legislation and to address the areas where the current agreement is no longer adequate. To mitigate this risk the Council's Legal services have been involved in the proposed revisions to ensure that they are consistent with all the relevant legislation.

Environmental Impact

- 32 There are no Environmental Impacts as a result of this Tenancy Agreement change.

Financial Implications

- 33 Consultations on the financial implications have taken place with finance colleagues and there are no new financial implications arising from this report.
- 34 Budgets to fund the consultation exercise and implementation of the new agreements have previously been identified and the recommendations in

this report will have no supplementary impact on the Council budget if approved.

Legal Implications

- 35** There are no perceived legal implications arising from this report as the Council is simply updating its tenancy agreement in line with legislative changes.

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List of background papers:None