

## **OVERVIEW AND SCRUTINY COMMITTEE**

**Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,  
on Tuesday, 5th February, 2019 at 7.00 pm**

**Present:** Councillor Lee Anderson in the Chair;

Councillors Amanda Brown, Jackie James,  
John Knight, Glenys Maxwell, Mike Smith (as  
substitute for Lachlan Morrison) and  
Christine Quinn-Wilcox.

**Apology for Absence:** Councillor Lachlan Morrison.

**Officers Present:** Craig Bonar, Charles Edwards, Martin Elliott,  
Mike Joy, Joanne Froggatt, Peter Hudson,  
Nicky Moss, Phil Warrington and Shane Wright.

**In Attendance:** Councillor Cathy Mason.

### **OS.15 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests**

There were no declarations of interest.

### **OS.16 Minutes**

#### **RESOLVED**

that the minutes of the meeting held on 7 November 2018 be approved as a correct record and signed by the Chairman.

In accordance with the Rules of Procedure No.4, the Committee agreed to amend the order of the agenda so that agenda item 7, the consideration of the petition received requesting a review of Ashfield District Council's Tenancy/Lettings Policies and Sanctions, be considered first.

### **OS.17 Petition Received - Review of Ashfield District Councils Tenancy/Lettings Policies and Sanctions**

In accordance with the procedures set out in the Council's Petition Scheme, the petition on "Review of Ashfield District Councils Tenancy/Lettings Policies and Sanctions" having received in excess of 500 signatures was presented to the Committee.

The petition organiser, Councillor Cathy Mason, was in attendance to discuss the details of the Petition and put forward three questions for discussion. The Service Manager for Housing Management and Tenancy Services, attended the meeting to respond to the petition and questions.

### **Question 1**

“Through the residents it was discovered that many options which currently exist in statutory law to deal with ASB are NOT currently being used by Ashfield District Council, for example, Demoted Tenancies, Sections 14 and 15 of the Anti-social Behaviour Act 2003 inserted new sections into the Housing Acts of 1985 and 1988 to give social landlords a power to apply for a ‘demotion order’ where tenants or other residents of a dwelling, or visitors to a tenant’s home, have behaved in a way which is capable of causing nuisance or annoyance, or where such a person has used the premises for illegal or immoral purposes.

A demotion order has the effect of ending the existing tenancy and replacing it with a less secure ‘demoted’ tenancy. This removes the tenant’s Right to Buy (where it applies) and their security of tenure for at least a year. At the end of a year, if the landlord is satisfied with the tenant’s conduct, it will revert back to either an assured tenancy (if the landlord is a housing association) or a secure tenancy (if the landlord is a local authority or Housing Action Trust). The period of demotion can be extended in certain circumstances. We therefore require a comprehensive answer to why this option is not being used, or as it is current legislation how soon can this be implemented?”

### **Response**

“The council can ask the court to demote a tenant’s tenancy if they behave antisocially. A tenancy is demoted for 12 months, following which this is monitored. After this the tenancy automatically becomes a secure tenancy unless the council takes steps to evict the tenant.

In serious cases of Anti-Social Behaviour (ASB), where the tenant has been given warnings to improve their behaviour, the Council will apply for Possession of the property rather than a Demotion of the tenancy. To Demote would only delay the process and cause unnecessarily distress etc. to the complainant/victims.”

### **Question 2**

“The residents of the petition noted that many breaches of the existing Tenancy Agreement happen but are unrecorded by ADC officers, because they were deemed small or insignificant, however this NONE RECORDING leads to a clean tenancy and automatic secure tenancy at the completion of 1 year. Accurate recording of All breaches should be a priority, even if it were equated to some kind of points system, this would alert ADC to areas of concern, and no tenancy should automatically become secure without review. The Government website recommends 3 types of Tenancy Agreement, that being the introductory tenancy, the Secure Tenancy and the Fixed Term Tenancy, currently ADC does not operate the fixed term tenancy. Can we start immediately for all new tenancies a fix term tenancy, were suitable checks are

put in place enabling ADC to formulate a decision as whether to offer another fix term or move to the introductory tenancy or even end the tenancy at that point without the cost of eviction orders?”

## **Response**

“All issues which are reported to the Council (both the Community Safety Team and Housing Management and Tenancy Services Team) are recorded, however minor.

The Council’s Elected Members agreed some years ago not to introduce Fixed Term Tenancies. As far as I am aware the Council has no plans to introduce fixed term tenancies. The Government are considering whether to introduce these as mandatory tenancies for all Council’s but at present this has been placed on hold.

The term ‘fixed term tenancies’ refers to a flexible tenancy – a new form of tenancy introduced by the Localism Act 2011 which can be used by local authorities. A flexible tenancy is a time-limited form of secure tenancy e.g. 5/10 years and carries many of the same rights a secure tenancy. Council’s are still required to carry out the same legal action as secure tenancies, when dealing with breaches.

The use of fixed term tenancies is mainly used to:

- Make the best use of housing stock - e.g. manage under occupation
- Encourage tenant to explore other options e.g. home ownership - if a tenant’s annual income is over a certain threshold (and it considered they can afford home ownership), where the tenant could rent in the private sector and free up the property for another family in need,
- Support tenants in their wider aspirations – e.g. support tenants to achieve wider objectives related to training and employment - a support plan will need to be developed and tenants may have to find employment to have the tenancy renewed after the fixed term period, though if the income level would allow home ownership, it would not be renewed.
- Support tenancy sustainment – Intensive support is provided throughout the fixed term tenancy and if the tenant can manage their tenancy, they will be granted a further fixed term tenancies.
- Tackle Housing Management issues - Using fixed term tenancies in this way was not among the original aims set out by government when they were introduced and, on its own, it is unlikely to be a justification for adopting them. Organisations have adequate systems in place to deal with breaches of tenancy as they happen, and prior to the end of the tenancy term. Breaches of the tenancy should be addressed during the tenancy wherever possible e.g. do not wait for a review of the fixed term tenancy to address these.”

## **Question 3**

“As already noted by the resident MANY currently available option are Not being used we are cover by existing legislation, and therefore ALL options cannot be covered by just 3 questions. Currently ADC does not exercise its

legal right to “Absolute power of possession” covered in Sections 94 to 100 of the Anti-Social Behaviour, Crime and Policing Act 2014. This would apply if the tenant, a member of the tenant’s household, or a person visiting the property has met one of the following conditions:

- convicted of a serious offence (specified in Schedule 2A to the Housing Act 1985); (which I have a copy should the committee like to hear some of the offences this covers
- found by a court to have breached a civil injunction;
- convicted for breaching a criminal behaviour order (CBO);
- convicted for breaching a noise abatement notice; or
- the tenant’s property has been closed for more than 48 hours under a closure order for anti-social behaviour.

While this would only deal with the extreme perpetual ASB offender, this a required tool specifically for that purpose to give speedy at low cost results to alleviate the suffering of surrounding residents and the petitioners’ wish to know how quickly can this law which currently exists can be put to use by ADC officers?”

## **Response**

### **“The Council do use the ‘absolute grounds for possession**

For example, a recent case in Sutton - the tenant was creating drug related issues as well as all forms of ASB including noise nuisance. The tenant was allowing lots of unruly visitors to the property at all hours of the day and night causing disruption to the wider community. A civil injunction was granted with various clauses to which the resident breached. The breaches were put before the court and Ashfield District Council were awarded possession for absolute grounds for possession. This also went through the appeal process but still secured possession of the property alongside an injunction.

## **Vulnerability and Safeguarding**

It is important to recognise some tenants that maybe perceived as causing issues and concerns but maybe vulnerable with complex needs e.g. alcohol/drugs/mental health etc. which we need to deal with and ensure appropriate support is provided etc.”

The Chairman thanked Councillor Mason for attending to present the petition and the Service Manager, Housing Management and Tenancy Services for attending to respond to the petition.

### **RESOLVED** that

- a) the petition be noted;
- b) the issue of antisocial behaviour of tenants in Council properties and how this is dealt with by the Council’s Tenancy/Lettings Policies, including the use of sanctions, be recommended for inclusion on the Scrutiny Work plan.

## OS.18 Budget Update

The Corporate Finance Manager attended the meeting to provide a presentation on the 2019/20 Budget and an update on the Medium Term Financial Strategy.

The Corporate Finance Manager noted the financial challenges faced by the Council and the currently indicated budget shortfalls of £2.1 million in 2020/21 and £2.5 million in 2021/22 and the uncertainties created by the Fair Funding review, business rates re-set and retention and potential changes to the new homes bonus. The Corporate Finance Manager advised that due to these uncertainties the amount of the currently predicted budget shortfalls for 2020/21 and 2021/22 could change in the future.

The presentation provided information on:

- 2019/20 proposed Revenue Budget (General Fund and Housing Revenue Account)
- General Fund proposed Investments
- General Fund proposed Savings/Efficiencies
- Housing Revenue Account proposed Investments
- Housing Revenue Account proposed Savings/Efficiencies
- the Medium Term Financial Strategy estimated Funding Gap 2019/20 to 2021/22
- actions being taken to address the financial challenge
- the Financial Strategy in support of the Medium Term Financial Strategy, including:
  - Income generation opportunities
  - Potential efficiencies
  - Invest to Save Projects

Members asked for further information on third party rental of assets. The Service Director - Resources and Business Transformation advised that the letting of office space to the Police and DWP at the Council Offices in Kirby-in-Ashfield was an example of renting assets to third parties. The Corporate Finance Manager also advised that further opportunities would be sought to generate income by renting assets to third parties, and noted that the roll out of agile working would free up office space in Council buildings which would enable office space to be rented out and generate income for the Council.

Members also asked for further information on the redecoration allowance for tenants, which was proposed to be frozen at current levels for 2019/20. The Corporate Finance Manager provided information on the redecoration allowance and noted that the average redecoration allowance awarded was approximately £250, which was substantially below the maximum allowance and that each allocation of the allowance was carefully assessed on a case by case basis.

Members asked about the proposed new posts of Commercial Programme Support Officer and Customer Services Manager, the costs involved and whether it was essential, with the pressures on the Council's budget, that these posts were created. The Corporate Finance Manager advised that these posts would support the objectives of the Medium Term Financial Strategy and

that they needed to be recruited to as the Council currently had insufficient capacity to support the effective delivery of key transformational projects in these areas.

The Chairman and members of the committee thanked the Corporate Finance Manager for making the presentation and for answering their questions.

### **RESOLVED**

that the presentation of the Corporate Finance Manager on the 2019/20 Budget and the update on the Medium Term Financial Strategy, be noted.

## **OS.19 Corporate Scorecard Performance – April to September 2018**

The Service Manager - Corporate Services and Transformation attended the meeting to present the outturn for the Corporate Performance Scorecard for Quarter 2, April to September 2018.

The Service Manager advised that in March 2016 Cabinet had agreed the use of a balanced scorecard methodology to enhance the organisation's performance framework and its ability to understand how successfully the Corporate Priorities were being delivered. This approach had been taken as it was viewed as providing a more rounded view on performance, with a greater emphasis on customer satisfaction and quality. It was noted that the current Corporate Scorecard was aligned to priorities and key actions agreed pre 2018/19 by the previous administration and that post District Elections in 2019, the Corporate Plan and Corporate Scorecard would be reviewed and refreshed to ensure they were updated to reflect the Council's future ambitions and Corporate Priorities for the period 2019-2022. The Service Manager advised that until the that time performance outturn for the current Corporate Scorecard would continue to be monitored and managed at Corporate Leadership Team meetings and by Scrutiny.

The Service Manager advised that overall, the corporate scorecard outturn for April to September 2018 indicated that 67% of measures were achieving or exceeding target, with a further 17% within 10% variance of target. It was also noted that 53% of measures were indicating an improved position compared to the same period in the previous year, with a further 14% of performance levels only 5% (or less) lower than last year.

The Service Manager provided information on Corporate Plan key successes delivered over the previous 12 months which included:

- The Leisure Transformation Project progressing with a new build leisure centre in Kirkby.
- The Housing service being confirmed as best for overall customer satisfaction and income collection when compared nationally, with upper quartile performance also achieved in void relets and repairs.
- Through additional Tenancy Sustainment Officer capacity, the Council had been able to support nearly 600 tenants during the first 6 months of this year with welfare and money advice, a 25% increase.
- Developing the Discover Ashfield brand and launching it's a new website.

- Following refurbishment, occupancy of Idlewells Indoor Market increasing from 47% to 75%
- Being awarded the title from Keep Britain Tidy of Local Authority of the Year 2018
- The Big Ashfield Spring Clean ran over a 3-week period across the district collecting 82.5 tonnes of waste, 99.66% of which was recycled.
- Implementing a further £10m of commercial investment, totalling £24m, which delivered £700,000 (net) to support the Medium Term Financial Strategy

The Service Manager provided a presentation to the committee which provided further background information on the Corporate Plan and performance monitoring. The presentation also included further information on performance indicator exceptions, the reasons that they were not meeting targets, or that performance was reducing, and the actions being taken to address the underperformance, these were:

**Number of long term empty properties and derelict brought back into use**

– The Service Manager, Strategic Housing and Lettings, advised that while performance remained on target for the year, the lower outturn figure reflected the work undertaken by the Private Sector Enforcement Team over recent years to reduce the overall number of long term empty private sector homes and that there now remained a smaller core of long term empty properties that required more intensive work to bring them back in to use.

**Percentage of household waste recycled and composted** - It was noted that while recycling rates had declined this had been impacted on by the hot and dry summer in 2018 which had reduced the amount of compostable waste collected and by the reintroduction of charges for the collection of garden waste. It was noted that compared to the same period during 2015/16 when garden waste had last been chargeable, recycling rates had increased by 6.3%. The Environment and Cemeteries Manager noted that several initiatives were planned in order to deal with reducing contamination of recycling bins which included targeted education and enforcement programmes.

**Number of resident generated service requests received reporting litter** -

The Environment and Cemeteries Manager advised that litter hot spots would continue to be monitored and that this activity would be supported by targeted actions and campaigns.

**Number of resident generated service requests received reporting dog fouling** - The Environment and Cemeteries Manager advised that there was a long term decrease in reports of dog fouling but that there were still peaks in reported incidents, however as a result of targeted campaigns reports of dog fouling so far in quarter 3 were comparing favourably to the same period in 2017/18.

**Number of resident generated service requests received reporting fly-tipping** - The Environment and Cemeteries Manager advised that the increase in the number of reports received had occurred after a publicity campaign urging residents to report incidents of fly-tipping. The Environment and Cemeteries Manager also provided information on the scope of planned enforcement activity against unlicensed waste carriers and this was welcomed

by the Chairman and members of the committee. The Leader noted that while the number of reports of fly-tipping had increased, the amount of fly-tipped waste had not, meaning that individual incidents were being reported multiple times which was good news as it showed campaigns were working and that residents were taking pride in their local areas. Members of the committee agreed that it would be beneficial for the performance indicator regarding fly-tipping to be amended as it was positive that the reporting of fly-tipping had increased. The Chairman asked whether social media was being used as part of the campaign against unlicensed waste carriers and was advised by the Environment and Cemeteries Manager that where appropriate, social media was being used.

**Number of user attendances at Ashfield District Council leisure facilities**

– The Service Manager advised that attendance had been impacted by the closure of Huthwaite Leisure Centre, the transfer of operations at Selston and a period of closure at the ice rink at the Lammas for maintenance work. It was also noted that attendance had declined over the very hot summer months in 2018, as people chose outside activities rather than using indoor facilities. The Service Manager advised that promotions, advertising and minimal price increase for 2019/20 were being used in order to address the decline in attendance. Members were in agreement that promotional activities and offers were an effective way to encourage use of the Council's leisure facilities.

**Average days' staff absence per Full Time Equivalent employee** – The Service Director - Resources and Business Transformation advised that there had been a number of long-term sickness absences that had impacted on the figures and that Human Resources were continuing to support managers and the Corporate Leadership Team to reduce sickness and manage employees with early return to work through the Attendance Management Policy. Members of the committee asked whether peer mental health support was available for staff. The Service Manager advised that peer mental health support was available via the Workplace Health Champions initiative.

The Chairman and members of the committee thanked the Service Manager, Corporate Services and Transformation, the Service Manager, Strategic Housing and Lettings, the Environment and Cemeteries Manager and the Service Director Resources and Business Transformation for attending the meeting and answering their questions.

**RESOLVED**

that the presentation of the Service Manager, Corporate Services and Transformation on the outturn for the Corporate Performance Scorecard for Quarter 2, April to September 2018, be noted.

**OS.20 Scrutiny Workplan Consultation**

The Service Manager – Scrutiny and Democratic Services submitted a report requesting that the committee considered and discussed potential scrutiny topics for 2019/20.

Members were advised that in considering potential items to include in the workplan for any future review that the committee should take into account the



reasons for any future review, potential value added, timescales and corporate priorities. It was noted that the workplan was a live document and that ongoing consultation would continue to be undertaken with Service Directors, Third Tier Officers and Members throughout the year.

The Service Manager noted the importance of engaging residents in the scrutiny process and advised that Community engagement would also form part of an ongoing consultation process on the workplan.

**RESOLVED**

that in addition to the standing items on the Scrutiny workplan, the following items be added for 2019/20:-

- a) antisocial behaviour of tenants in Council properties and how this is dealt with by the Council's Tenancy/Lettings Policies, including the use of sanctions;
- b) staff sickness and absenteeism.

The meeting closed at 8.28 pm

Chairman.