

Report To:	CABINET
Date:	13TH DECEMBER 2022
Heading:	REVIEW OF TENANCY CONDITIONS (COUNCIL HOUSING)
Executive Lead Member:	COUNCILLOR TOM HOLLIS, EXECUTIVE LEAD MEMBER FOR COUNCIL AND SOCIAL HOUSING
Ward/s:	ALL
Key Decision:	YES
Subject to Call-In:	YES

Purpose of Report

To update Cabinet on the progress of the review of the Council's social housing conditions of Tenancy.

To inform Cabinet of the feedback received from the consultation with tenants on the proposed updated tenancy conditions.

To recommend revised Tenancy Conditions and seek Cabinet's approval to vary the terms of all Council tenancies in February 2023.

Recommendation(s)

Cabinet is requested to:

- 1) Note the reasons for reviewing the Conditions of Tenancy and the outcome of consultation with tenants on the proposals.
- 2) Approve the proposed revised set of Tenancy Conditions attached as an appendix to this report.
- 3) Authorise the Director of Housing and Assets to take the necessary steps to implement the new tenancy conditions in February 2023 by undertaking the statutory process to vary the terms of the Council's tenancies.

Reasons for Recommendation(s)

- The existing tenancy agreement refers to Ashfield Homes Ltd which was disbanded in 2016. There are deficiencies in the existing agreement as a result of a number of legislative changes and updates are required to Council rights and obligations as a landlord, as well as the tenant's rights.
- If the proposed revised conditions are approved and implemented, tenants will have a clearer understanding of their obligations and of those of the Council.
- The agreement strengthens our ability to enforce conditions of tenancy against those who wilfully and/or persistently fail to abide by them.
- Fire Safety will be further strengthened and promoted.
- The changes must be consulted upon following a prescribed process.

Alternative Options Considered

To do nothing and to continue to operate using the existing, outdated tenancy agreement would mean that the Council will not have a modern, easily understandable, fit for purpose, tenancy agreement in place. This is not recommended.

Detailed Information

1. Background

- 1.1 It is important that a tenancy agreement is kept up to date in terms of legislative requirements. The current tenancy conditions for council housing tenants have been in force since 2015 and there are a number of clauses which could now benefit from change, in order to take into account changes in legislation, good practice and to ensure they are clear and in plain English.
- 1.2 The review of the conditions of tenancy aims to deliver an updated set of tenancy conditions which are clear and enforceable, emphasising the rights and responsibilities involved when accepting a Council Tenancy.
- 1.3 Whilst most of the proposed changes are around clarity and ability to enforce, they do include new conditions to enable better management of the tenancy. They also strengthen our rights and tenants' responsibilities in terms of fire and gas safety.
- 1.4 When revising the tenancy agreement, we consulted with Housing Staff, the Community Safety Team and Legal Services and held an elected Members briefing session, alongside undertaking the prescribed process.
- 1.5 Section 103 of the Housing Act 1985 prescribes the procedure to be adopted when varying the terms of secure and introductory tenancies.
- 1.6 The first stage is to issue a Notice of Variation on the tenant. However, before the Council can serve this Notice of Variation, the Council must firstly serve a Preliminary Notice which informs the tenant of the Council's intention to serve a Notice of Variation. The Preliminary Notice informs the tenant of the Council's intention to serve a Notice of Variation and is the

primary method of consulting each tenant to obtain their views on the changes proposed to the tenancy agreement.

- 1.7 The Notice must specify the proposed variation(s) and its effect(s) and invite the tenant to comment on the proposed variation(s) within a period considered reasonable by the Council. The Council must consider any comments made by tenants within the consultation period before deciding to serve the Notice of Variation.

2.0 Consultation

- 2.1 Consultation has now been undertaken with tenants in relation to the new proposed tenancy conditions. During week commencing 10th October 2022, a Preliminary Notice of Variation was posted to 6,494 tenants. This notice was the first stage of our consultation with tenants and provided them with an opportunity to give feedback over a 4-week period (17th October 2022 to 14th November 2022). Documents accompanying the Preliminary Notice of Variation also included:

- Frequently (FAQ) asked questions leaflet
- Summary of proposed changes

- 2.2 All new tenants who signed tenancy agreements during the consultation period were also given the opportunity to comment on the proposed changes.

- 2.3 A copy of the full proposed tenancy agreement was made available to tenants on the website or by requesting a copy.

- 2.4 Tenants were invited to give their comments in a variety of ways as follows:-

- By completing an online form on the Council's website
- By emailing comments to the tenancy agreement inbox
- By providing feedback over the telephone
- By writing
- By providing comments at a housing surgery or face to face consultation event at their respective sheltered housing court (for sheltered housing tenants only)

- 2.5 The Housing Management and Tenancy Services Section also sought to engage its known vulnerable tenants to explain the purpose of the consultation.

- 2.6 Consultation closed on the 14 November 2022.

3.0 Consultation feedback

- 3.1 We received 91 responses to the consultation. This included feedback from online forms, the tenancy agreement email inbox, telephone calls and drop-in sessions at sheltered housing courts.

- 3.2 Overall, the tenancy agreement was well received with less than 1% disagreeing with the proposed changes.

- 3.3 All feedback received has been carefully considered, when finalising the proposed revisions to the conditions. The most concerns/issues raised were in relation to the new social media clause. As a result, when the feedback is provided to tenants, we will emphasise that the

clause will be enacted on a proportionality basis where the acts are deemed to be at a criminal threshold and/or has a direct impact on the ability to manage the tenancy/property.

- 3.4 An issue was also raised about the taking and retention of photographs and specific mention of minors. The Council already asks for photographic ID at the housing 'offer' stage; therefore, this is not a new process and is line with tenancy fraud prevention. When we feedback to tenants, we can make this clear and also state that we will not be asking or taking photographs of minors.
- 3.5 The issue of drying clothes on radiators was also raised as an issue. We can feed back to tenants that the clause states that clothes should not be routinely dried on radiators, rather than a ridged approach. This new clause will help when we are dealing with reports of damp and mould in the property, as clothes drying is a potential cause where condensation is generated along with lack of ventilation.
- 3.6 Some feedback was raised about the new boundary marker clause. Changes have been made to this clause following this feedback to make it clearer that the boundary line should not be moved. This new clause has been added because there have been tenants who have moved the boundary fencing which has resulted in complaints from neighbouring properties. Please see Appendix 1 which shows the main comments and the amendment to the clause.
- 3.7 As a result of the positive feedback received, we do not propose to make any further key changes to the revised version of the Tenancy Agreement.
- 3.8 Feedback on how we have used this information and the results of the consultation will be reported back to tenants on the housing webpage. This information will also be available upon request for those tenants who do not have access to social media.
- 3.9 A revised tenancy agreement is attached at Appendix 2.

4.0 Next Stage

- 4.1 The next stage if the new conditions are approved by Cabinet is to introduce the new tenancy agreement. We will write to all tenants issuing them with a formal Notice of Variation. Enclosed with the Notice will be a copy of the new tenancy agreement. The Notice will give a date when the new tenancy agreement comes into effect, which will be at least 28 days' notice from the date of the Notice. We anticipate the new agreement coming into effect in February 2023, if approved.
- 4.2 Any new tenants offered either an introductory or secure tenancy from that date will sign up to the new terms and conditions.
- 4.3 Existing tenants will not have to sign the new tenancy agreement.

Implications

Corporate Plan:

The provision of good quality housing is a priority for the Council and there is a commitment to achieve this by managing our Council homes efficiently. A robust Tenancy Agreement which sets out the rights and responsibilities of tenants and the Council will enable efficient and effective management of our homes.

Legal:

The Housing Act 1985 provides that secure tenancies can only be varied by either agreement with the tenancy or by using the statutory procedure pursuant to s.103 of the Housing Act 1985 which sets out the process and time limits to be followed. The procedural requirements will be satisfied by the steps outlined in Section 4.0 of the report. [RLD 24/11/2022]

Finance: [PH 23/11/2022].

Budget Area	Implication
General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	All costs incurred will be met from within existing HRA Budgets. Updating the sections relating to service charges and rental arrears allows the Council to maximise rental income collection.
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
A tenancy agreement which does not provide clear detail on how we manage tenancies, risks loss of confidence and may leave us open to legal challenge and associated costs.	Reviews of the Tenancy Agreement to ensure it provides clear details to tenants.

Human Resources:

No adverse Human Resources implications have been identified

Environmental/Sustainability:

An effective Tenancy Agreement will contribute to the development of sustainable communities.

Equalities:

Feedback from the consultation has been used to finalise the Equality Impact Assessment (EIA) on the revised Tenancy Agreement. The development of the new Tenancy Agreement has been taken with due regard to equalities and diversity issues and the tenant profile and will be made available in a range of formats to meet tenants needs. No significant negative consequences from the new Tenancy Agreement related to groups with protected characteristics were identified.

Other Implications:

Workforce

In order to best support our staff in taking enforcement action the Tenancy Agreement must be reflective of current legislation and issues experienced on the ground.

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

Appendices:

Appendix 1: Summary of comments from tenants with recommended amendments

Appendix 2: Revised Tenancy Agreement

Report Author and Contact Officer

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