



## CABINET REPORT

<b>Report Title</b>	<b>Review of Housing Tenancy Agreement</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	8 July 2009
<b>Key Decision:</b>	YES
<b>Listed on Forward Plan:</b>	YES
<b>Within Policy:</b>	YES
<b>Policy Document:</b>	NO
<b>Directorate:</b>	Housing
<b>Accountable Cabinet Member:</b>	Councillor Sally Beardsworth
<b>Ward(s)</b>	

### 1. Purpose

- 1.1 This report is to seek Cabinet's approval to commence formal consultation on the variation of the housing tenancy agreement conditions and authorise the issue of the preliminary notice to all council tenants. .

### 2. Recommendations

That Cabinet:

- 2.1 Approve the commencement of formal consultation on the draft tenancy agreement (attached as Appendix 1) and authorise the issue of the preliminary notice to all council tenants.
- 2.2 Following consultation with tenants a further report will be presented to Cabinet detailing the comments received from tenants, any amendments made to the draft tenancy agreement and asking cabinet authorise the service of 1he Notice of Variation on all tenants.

### **3. Issues and Choices**

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#### **3.1 Report Background**

Tenancy agreements form the basis of the relationship between landlords and residents, and set out the rights and responsibilities of both parties. The current tenancy agreement has not been reviewed for many years and it needs to be updated to reflect current legislative requirements, Office of Fair Trading guidance given by the Office of Fair Trading on unfair terms in tenancy agreements and in order to provide a more up to date and user-friendly format. It is also very important that the Council's Tenancy Agreement is clear and reflects current law and practice, as it is one of the tools used when enforcement action is required against a tenant.

The proposed Tenancy Agreements has been drafted by Housing in conjunction with the Council's Legal Section. The draft Tenancy Agreement is attached at Appendix 1 for Cabinet information and comment. The current Tenancy Agreement is attached at Appendix 2 for comparison. The changes to the Tenancy Agreement have largely been made to ensure that it is clear on the obligations of both parties – the Council and its tenant(s). Some of the tenancy conditions have been re-drafted to reinforce the intention behind them. There have also been significant changes to the layout and presentation of the proposed tenancy agreements.

Some consultation of the revision of the tenancy agreement has already taken place. A Tenant consultative panel and Housing Staff were consulted on the draft tenancy agreements which invited comments.

Any plans to change the tenancy agreement will be subject to statutory consultation and notification requirements. Under section 105 of the Housing Act 1985 the Council is required to consult with its tenants on any substantial change in the way it intends to manage its tenancies and give tenants the opportunity to comment on proposed changes. Tenants will be provided with a summary of the draft tenancy agreement. Full copies of the agreement will be available on request and on the Council's website.

There is also a requirement to serve notice on tenants pursuant to sections 102 and 103 of the Housing Act 1985 as detailed in the Legal section below.

#### **3.2 Choices (Options)**

Not to approve the proposed tenancy agreements. However this would mean the Council's existing agreement would not reflect current legislative requirements.

### **4. Implications (including financial implications)**

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#### **4.1 Policy**

##### **4.1.1 None**

#### **4.2 Resources and Risk**

- 4.2.1 There are no other financial impacts other than the administration costs for the public consultation and printing of the revised tenancy agreements.
- 4.2.2 The Council is expected to have a tenancy agreement in place that reflects current legislation and guidance given by the Courts and Office of Fair Trading. If it does not, it could face criticism from Tenants and Audit Commission and it risks failure in any enforcement action it might take against a tenant.
- 4.2.3 Most Council tenants adhere to their tenancy agreement and simply want quiet enjoyment of their homes, and they also expect the Council to ensure that the environment in which they live is good. However, some tenants do behave in a way that is not acceptable to the Council or the majority of its tenants. Having a sound tenancy agreement in place is an imperative in being able to take swift and effective enforcement action and will contribute to the development of sustainable communities.

#### 4.3 Legal

- 4.3.1 The tenancy agreement is a legal agreement between the council and its tenants and must comply with the relevant Housing Acts.
- 4.3.2 There is a legal procedure set out in the Sections 102 and 103 of the Housing Act 1985 which must be adhered to when the Council varies its Tenancy Agreement.
- 4.3.3 The first stage is to serve a preliminary notice of variation. This informs the tenants that the Council intends to serve a notice of variation, it specifies the proposed variation and its effect and invites the tenants to comment on the proposed variation within such time, specified in the notice, as the Council considers reasonable. There is a statutory 28 day period for responses.
- 4.3.4 The second stage is to serve the notice of variation. The notice of variation specifies the variations proposed affected by it, the date on which it takes effect (at least four weeks from the date of service) and also provides such information considered necessary to inform the tenant of the nature and effect of the variation.
- 4.3.5 Once that exercise has been undertaken and any amendments made, the Council send a notice of variation that includes the date the variation will take place after which the new tenancy agreement will be implemented.
- 4.3.6 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.

4.3.7 In view of the legal requirements that have to be undertaken to introduce the new Tenancy Agreement, it is expected that it will be in place by the end of January 2010.

#### 4.4 Equality

The revised agreement contains a specific clause prohibiting the harassment of others on the grounds of race, nationality, ethnicity, religion or sexuality

#### 4.5 Consultees (Internal and External)

##### 4.5.1 External:

Tenants

##### 4.5.2 Internal:

Borough Solicitor  
Housing  
Tenants Consultative Panel

#### 4.6 How the Proposals deliver Priority Outcomes

N/A

#### 4.7 Other Implications

No other implications.

### **5. Background Papers**

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