



CABINET REPORT

Report Title	New Tenancy Agreement
---------------------	------------------------------

AGENDA STATUS: PUBLIC

Cabinet Meeting Date: 10 February 2010

Key Decision: YES

Listed on Forward Plan: YES

Within Policy: YES

Policy Document: NO

Directorate: HOUSING

Accountable Cabinet Member: Sally Beardsworth

Ward(s) All

1. Purpose

- 1.1 To consider the results of the consultation on the proposed new tenancy agreements and to approve the final drafts for implementation.

2. Recommendations

- 2.1 It is recommended that members approve the draft Introductory and Secure Tenancy agreements attached in Appendices 2 and 3, and authorise the variation of tenants' existing terms and conditions of tenancy.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The tenancy agreement forms the basis of the relationship between the Council and its tenants and sets out the rights and responsibilities of both parties.

3.1.2 The tenancy agreement was last reviewed in 1997. It does not give any information on the rights that tenants have. It contains no clauses on domestic violence, has no fraud prevention mechanisms, and has limited information on the payment of rent. The current agreement no longer complies with best practice or current legislative requirements – for example it does not address the rights of civil partners.

3.1.3 New draft Introductory and Secure tenancy agreements were submitted to Cabinet on the 8th July and were approved for consultation purposes.

3.2 The Consultation process

3.2.1 The Housing Act 1985 specifies a statutory format for the consultation and this requires that every tenant be sent a preliminary notice of intent to vary their existing terms and conditions, drawing their attention to the main changes to be made. This is set out in sections 102 and 103 of the Act. There is a statutory requirement for a 28-day consultation period, but in accordance with best practice and the Council's consultation toolkit a consultation period of 12 weeks was given. The closing date of 23rd October was clearly stated on documentation sent out and on the Council's web site

3.2.2 Details and all documentation were placed on the Council's web site and a dedicated e-mail box was set up.

3.2.3 Copies of the existing and draft new documents were lodged with the One Stop Shop for inspection.

3.2.4 The Council's legal department produced the preliminary notice of variation and this was sent out to all tenants by the 3rd August 2009. The notice was accompanied by an explanation frequently asked question and answer leaflet.

3.2.5 The Tenants Sounding Board considered the proposals in February and on the 3rd November. Overview and Scrutiny considered the draft in July and set up an Appreciative Enquiry which met on the 14th October. At that meeting Members suggested amendments which were taken on board and the draft amended accordingly. This included strengthening the clauses that apply to communal areas. Consultation was also undertaken with the fire service, police, Victim Support, the Sunflower Centre, articles in Forum Newsletters and other council departments. Following concerns that consultation had only been held with invited tenants, a drop-in session was held on the 9th December. A further meeting was also held with the Tenant Sounding Board to discuss the changes arising from the Consultation.

3.2.6 The existing and draft new tenancy agreements were put on the Council's website and a dedicated e-mail address was provided to make it easy for tenants to respond.

3.2.7 Details of the consultation responses and the amendments made are given in the appendix.

3.3 Summary of changes made as a result of consultation

- 3.3.1** Changes are shown in bold text with a reference number. Appendix 4 shows the details of why the changes have been suggested. .
- 3.3.2** Generally, officers were asked to make sure the document was as clear as possible, contained full information where appropriate and also to review certain clauses which were seen as too restrictive, particularly those in relation to car repairs and notices. This has been done.
- 3.3.3** An explanatory leaflet will be produced in plain English and the Crystal Mark will be obtained to ensure that it is easily understood.
- 3.3.4** During the consultation process it became clear that, although covered in the Tenancy Handbook, targeted information needs to be provided for tenants on the implications of joint tenancies and also more information on succession – what happens to a tenancy when a tenant dies. Separate information leaflets will be produced.
- 3.3.5** Changes made include clarifying organisations with whom we share information; clarifying that the obligation to pay rent regularly applied to rent *and* any service charges (for example, heating) and clarifying arrangements for removal of bulk refuse were clarified. The landlord's right of access in non emergency cases was extended from 24 hours to 3 working days to allow tenants to arrange to take time off work; a clause prohibiting urinating in lifts was included; and a clause stating that even if it has given permission for a tenant to keep pets, the Council may withdraw this permission if the pet or animal causes nuisance was added.

3.4 The Introductory Tenancy Agreement

- 3.4.1** This is attached in Appendix 3 for approval. Introductory tenants do not enjoy all the rights that secure tenants have. This is made clear in the document and it is made clear that those rights apply only when the tenancy becomes secure.

3.5 Implementation

- 3.5.1** It will be necessary to serve a notice of intention to vary the tenancy agreement giving at least 4 weeks notice of the changes. This will be drawn up by the legal department and sent to every tenant. The standard clause on how to obtain the document in other formats/languages will be included in the tenancy agreements. It will not be necessary for existing tenants to sign the new agreements. The clauses in relation to photographs and national insurance numbers will apply only to new tenants. It is anticipated that the new agreements will come into force in April 2010.

4. Implications (including financial implications)

4.1 Policy

None

4.2 Financial Implications

None

4.3 Resources and Risk

- 4.3.1** The existing tenancy agreement does not comply with best practice or recent legislation in relation to civil partners and there is, therefore, a risk that it would have a detrimental effect on the outcome of an audit commission inspection.

4.4 Legal

- 4.4.1** The tenancy agreement is a contract between the Council and its tenants. It has been written in consultation with the legal department.

- 4.4.2** The powers contained within ss102 and 103 of the Housing Act 1985 gives the Council statutory authority to vary the terms of a tenancy agreement. A secure tenancy may be varied in one of three ways:

- (a) by agreement between landlord and tenant;
- (b) by way of written notice to the extent the variation relates to rent or to payments in respect of rates, council tax or services, by the landlord or the tenant in accordance with a provision in the lease or agreement creating the tenancy, or in an agreement varying it;
- (c) in accordance with s103 (notice of variation of periodic tenancy).

- 4.4.3** In varying the tenancy agreement the Council intends to do so in accordance with paragraph (c) above. Preliminary Notice informing the tenant of the landlord's intention to serve a Notice of Variation was served on all Council Tenants on 3 August 09. The Preliminary Notice specified the proposed variations and their effects and invited the tenants to comment on the proposed variations by 23 October 09. Tenants' comments have now been received and considered. If Cabinet approves the final drafts of the Introductory and Secure Tenancy for implementation Notice of Variation must then be served on the tenants. The Notice of Variation must specify the variations to take effect in the agreement(s) and the date on which the changes are to take effect. The period between the date on which the notice of variation is to be served and the date on which it is to take effect must be at least 4 weeks or the rental period whichever is the longer.

- 4.4.4** Cabinet should note that the process is in accordance with Legislation.

4.5 Equality

4.6 An Equalities Impact screening assessment was carried out. No issues were identified requiring a full impact assessment. It has been acknowledged that it would be best practice to produce a vulnerable tenants policy and this is in preparation and will be submitted to Cabinet for approval.

4.7 Consultees (Internal and External)

4.7.1 All council tenants and relevant stakeholders – see section 3.2

4.8 How the Proposals deliver Priority Outcomes

4.8.1 The proposals are consistent with the following corporate priorities as outlined in the Councils' Corporate Plan

- **Safer, greener and cleaner communities**
 - Reducing crime, fear of crime and anti social behaviour
 - Increased recycling
 - Achieving cleaner neighbourhoods

4.9 Other Implications

None

5. Background Papers

5.1 Appendix 1: existing Tenancy Agreement

5.2 Appendix 2: draft Secure Tenancy Agreement for approval

5.3 Appendix 3: draft Introductory Tenancy Agreement for approval

5.4 Appendix 4: details of feedback, changes made or rejected as a result of consultation