

CABINET

Review of Council Housing Tenancy Agreement Individual Cabinet Member Decision Councillor David Kerr Report of Head of Council Housing Services

PURPOSE OF REPORT				
To inform the Cabinet Member of the results of consultation with tenants on the proposed changes to the council housing tenancy agreement and to ask the Cabinet Member to approve the new agreement.				
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input checked="" type="checkbox"/>	Referral from Cabinet Member
Date Included in Forward Plan	Not applicable			
This report is public				

RECOMMENDATIONS

- (1) That the Cabinet Member considers the comments received from tenants during consultation and any subsequent amendments made to the draft tenancy agreement.
- (2) That the amended tenancy agreement attached at Annex B is approved.
- (3) That the Head of Service is authorised to issue to all tenants a Notice of Variation with the new tenancy agreement attached.

1.0 Introduction

- 1.1 Our approved Service Business Plan for 2007/2008 set out that the Council would review its tenancy agreement.
- 1.2 The current Tenancy Agreement has been in use since April 1996. It is best practice to review the tenancy agreement on a regular basis and this is recognised by the Audit Commission within the Tenancy and Estate Management Key Line of Enquiry (KLOE). The review provided us with the opportunity to incorporate matters arising out of changes in legislation such as the introduction of the concept of demoted tenancies, to take on board recommendation in relation to tenancy clauses tackling domestic violence, to address new housing management issues, and to take into account the issues tenants felt needed addressing in the tenancy agreement.
- 1.3 It had been identified that it would be beneficial to review the format of the existing agreement as well as the other terms contained within the agreement to ensure that they are fair, easily understood, legislatively correct and reflective of good practice.

1.4 As part of the review process the District-wide Tenants Forum/Cabinet Liaison Group have looked at the content, format and layout of the agreement. Stakeholders including the Community Safety Partnership and the Domestic Violence Forum Executive have been provided with the opportunity to provide comments. Changes were made to the draft tenancy agreement prior to wider consultation.

2.0 Proposal Details

2.1 The District-wide Tenants Forum/Cabinet Liaison Group when looking at the existing agreement and a draft of the proposed new tenancy agreement wanted to ensure :

- The content to be clear and easier to read
- To know when as a tenant you needed to contact the Council
- The meaning of the words “You, we, us, our, they” to be made clear
- A clearer understanding of tenants’ rights and responsibilities

2.2 The main changes to the existing agreement include a better explanation of the types of tenancy – Introductory, Secure and Demoted tenancy. A list explaining some of the key word and phrases has also been included. The section relating to personal behaviour has been expanded to be more explicit about a response to domestic violence. Other changes include new clauses relating to the tampering with the supply of gas, electricity and water, and the use of appropriate floor coverings in flats. There have been a number of other drafting changes that tidy up the existing terms to make them easier to understand.

2.3 The Notice and details of the changes were sent to tenants for their comments during early March 2008. The comments received from tenants are noted in Annex A for consideration, and where appropriate have been incorporated or reviewed within the draft tenancy agreement.

2.4 The draft tenancy agreement as amended is attached as Annex B for approval and ratification by Cabinet. Once the draft agreement has been approved, the Head of Council Housing Services will issue to all tenants a 28 day Notice of Variation with the new tenancy agreement attached to bring the agreement into affect.

3.0 Details of Consultation

3.1 The new tenancy agreement has been developed in consultation with tenants, the Cabinet Members for Housing, the District-Wide Tenants Forum, staff, Legal Services, the Community Safety Partnership, the Domestic Violence Forum.

3.2 A first draft of the proposed tenancy agreement was prepared with input from the tenant representatives and council representatives on the District-wide Tenants Forum/Cabinet Liaison Group, along with input from council housing and legal staff. This draft was considered by the District-wide Tenants Forum/Cabinet Liaison Group in February this year. In the light of further comments at that meeting a final draft of the proposed tenancy agreement was prepared for statutory consultation with all tenants.

3.3 In accordance with the Housing Act 1985 the Council served a Preliminary Notice of Variation to all tenants via the March 2008 edition of Housing News, and a full copy of the proposed tenancy agreement was also issued. Tenants were asked to read the

proposed tenancy agreement and to make any comments or ask any questions by the 18 April 2008. Views were accepted by letter, email or by telephone.

- 3.4 By the closing date of the consultation a variety of comments had been received and they have been reported in Annex A this report. These comments were also reported back to the District-wide Tenants Forum/Cabinet Liaison Group at the meeting on the 30 April 2008.

4.0 Options and Options Analysis (including risk assessment)

4.1

Option	Advantages	Disadvantages	Risks
1. Do nothing – continue with the existing agreement	Simplicity of continuation. Marginal cost savings	The existing tenancy agreement does not reflect current standards and requirements.	The tenancy agreement will not be wholly fit for purpose as an effective management tool.
2. The Council approves the revised tenancy agreement	The tenancy agreement is updated to ensure that it meets current standards and requirements, and it fit for purpose. The tenancy agreement remains an effective management tool.	None identified.	The Office of Fair Trading publication on unfair terms in tenancy agreements has been referred to throughout this process. The relevant Key Lines of Enquiry from the Audit Commission have also been taken into account. This approach will help minimise risk relating to the robustness of the content of the new agreement.

5.0 Officer Preferred Option (and comments)

- 5.1 The Officer preferred option is Option 2 for the reasons set out above.

6.0 Conclusion

- 6.1 The need has been identified for the Council to review its tenancy agreement to ensure that the agreement remains fit for purpose and can be used as an effective management tool. The agreement has also been updated to ensure that it meets tenant expectations in terms of clarity and understanding.

RELATIONSHIP TO POLICY FRAMEWORK

Corporate Plan – the proposal supports the Council's medium term objectives: to deliver value for money, customer focussed services; to support sustainable communities; to continue to improve the Council.

Service Business Plan – the proposal is contained within the Services agreed service business plan for 2007/2008.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Impact assessments have been undertaken and no issues have been identified.

FINANCIAL IMPLICATIONS

The costs involved in the issuing of the new tenancy agreement are estimated at £2,500. This will be met from the current budget for Printing and Stationery. There are no other direct material financial implications arising as a result of the changes proposed.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

Section 102 and 103 of the Housing Act 1985 give the Council the power to vary the terms of the secure tenancy agreement by serving a notice of variation on the tenant. Before serving a notice of variation the Council has to give preliminary notice and the tenant has to be invited to make comment on the proposed changes. The Council is required to consider the comments made.

Legal Service have also been consulted at an early stage in the drafting of the varied terms of the agreement and having made recommendations of the terms these have been incorporated into the revised tenancy agreement that was sent to all tenants for consultation.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and her comments have been incorporated in the report.

BACKGROUND PAPERS

Housing News Issue 01 March 2008

Contact Officer: Mr Chris Hanna

Telephone: 01524 582516

E-mail: channa@lancaster.gov.uk

Ref: none

Comments received as a result of the consultation

1.1 The comment received from a member of the Domestic Violence Forum Executive Group was that the proposed agreement was: *“straightforward and a reasonable approach and understandable”*

1.2 The following comments were received by email from a tenant in Burrow:

3.20 I understand that this already forms part of the existing tenancy agreement, but surely normal planning rules apply. Could it not read, you may add a satellite dish, aerial, or replace an existing one as long as it conforms to planning regulations and you home is not within a conservation area.

This is a valid comment and highlights that planning approval may also be required as well as landlord consent. The paragraph in the tenancy agreement is about fixtures in general and needs to remain in the agreement. The comment has been taken onboard and reference has now been made to the fact that planning approval may also need to be obtained.

3.24 I agree the tenant should check the insulation on pipes etc but the council should ensure all pipes are adequately insulated in the first place. As it says in point 3.1 Councils responsibilities we will repair and maintain drains, gutters and outside pipes.

The requirement to kept Council dwelling houses repaired and maintained is sufficient provision to ensure that all pipes are adequately cared for.

5.11 Why? what if they run a business from their home and pay business rates do they have a right to advertise their profession. Does that also go for signs on the side of works vehicles?

This clause was included to help prevent inappropriate signage appearing on residential estates and does not include signage on vehicles.

5.12 Who will decide how often a garden should be mowed or weeded?

The clause within the draft agreement does not specify how often a garden should be mowed or weeded other than by stating that this should be done “regularly” to ensure that the garden is kept tidy. It is not proposed to make any amendment to the draft agreement.

5.14 Surely we are allowed to put up a fence as long as it's within planning regulations. At present you can erect a fence up to 2 meters in height without the need for any permission. Why should this be any different for council tenants?

This again highlights than planning approval may be required as well as landlord approval. When any application is received from a tenant for any alteration to the premises or structure consideration and advice is given whether or not planning or building regulation approval is required in addition to consent from the landlord.

- 1.3 Comment has also been received from a tenant on the Branksome estate regarding the operation of clause 4.4 in the draft tenancy agreement relating to noise; particularly the playing of radios with windows open in flats,

This is covered by the example given in the clause of "loud music".

This tenant also felt that a clause relating to nuisance caused by garden bonfire should be included. Garden bonfires are not seen as an issue. However bonfires are discouraged. Tenants are advised that waste material should be composted where possible. Person causing a nuisance may be liable to legal action the Environmental Protection Act 1990.