

## **Executive Committee**

9th July 2019

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### **Housing Tenancy Agreement and Conditions**

Relevant Portfolio Holder	Cllr Craig Warhurst
Portfolio Holder Consulted	Yes
Relevant Head of Service	Judith Willis
Wards Affected	All
Ward Councillor Consulted	No
Key Decision : Yes	

#### **1. SUMMARY OF PROPOSALS**

- 1.1 This report proposes the implementation of revised Housing Tenancy Agreement and Conditions.

#### **2. RECOMMENDATIONS**

**The Executive Committee will be asked to RESOLVE that:-**

- 2.1 The revised Housing Tenancy Agreement & Conditions attached at Appendix 1, be released for formal consultation with tenants; and**
- 2.2 Subject to the outcome of the consultation, a final version of the Tenancy Agreement be brought back to Executive Committee for formal adoption;**

#### **3. KEY ISSUES**

##### **Financial Implications**

3.1

There are no direct financial implications from the adoption of the new Housing Tenancy Agreement and Conditions . However, the new document will provide tenants with a clearer understanding of both landlord and tenants requirements and obligations. Consequently the Council will be able to pursue the recovery of costs from tenants when appropriate e.g replacement keys, repairs from deliberate damage. A Tenants Recharge Policy is currently being developed to support this and will be brought to Executive Committee for consideration and approval in September 2019.

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### **4 Legal Implications**

- 4.1 It is a legal requirement for social housing Landlords to provide social housing tenants with a written tenancy agreement setting out the terms and conditions applicable to both tenants and landlords.
- 4.2 There are other legal obligations on both tenants and the Council, which may not be spelled out in the agreement, but which are implied into all tenancy agreements, for example compliance with other statutory frameworks which impact on both parties
- 4.3 The statutory duties of a Local Authority Housing Landlord are set out in section 3 'Our responsibilities' of the Housing Tenancy and Conditions document.
- 4.4 Under the Legislative Reform (Regulator of Social Housing) England Order 2018, the Regulator of Social Housing became a stand-alone Regulator, from 1 October 2018.
- 4.5 The RSH proactively seeks assurance from social housing providers that they are meeting set out Economic and Consumer standards.
- 4.6 A Tenancy Standard being part of the Consumer Standards regulated by the RSH states the following: *registered providers shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation*. It is therefore essential that we have the appropriate tenancy agreement in place enabling compliance.

### **5 Service / Operational Implications**

- 5.1 To ensure the effective operational management of social housing tenancies it is essential to ensure that a contract is in place between the tenant and the Council as the Landlord.
- 5.2 The contractual agreements provides tenants with information relating to tenancy law and although a landlord can choose what information is provided within the contract, it is considered to be best practice to provide as much information within the agreement as possible. This enables the Council as landlord to have a more robust and transparent approach to processes, in relation to enforcement, where conditions are breached.
- 5.3 Part of a Housing Officers role is to monitor tenancy agreements, ensuring tenants adhere to the prescribed contractual terms. Should tenants breach the contractual terms, for example non-payment of rent,

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Officers can rely on this document, enabling them to take the appropriate action to bring the contract back into compliance or start a process to bring about termination of the tenancy.

- 5.4 A Tenancy agreement, conditions and practices are already operational and in place; however, the document has not been updated since 2007.
- 5.5 Apart from a minor change in legislation under the Localism Act 2011, relating to tenant succession rights, there have been no other legislative changes, which would have necessitated a review or update of the existing document.
- 5.6 Following the review of the Housing Service in 2018, part of the Housing Strategic Improvement plan, was to undertake a review of the existing Tenancy Agreement and conditions and develop a Tenants' Handbook. The proposed Tenants' Handbook will be brought to Executive Committee for approval when the final version of the tenancy agreement returns to Executive for adoption.
- 5.7 To support and reinforce the revised Tenancy Agreement, a Recharge Policy and processes enabling the Council to recover costs when tenants breach certain conditions of tenancy, is also being prepared and will be brought to Executive for consideration in September 2019.
- 5.8 Key Changes

The key changes to the current tenancy agreement and conditions can be detailed as follows:

- **Inclusion of:**
  - *Definitions page*
  - *Our Responsibilities section*
  - *Your Rights section*
  - *Anti-social behaviour section*
  - *Keeping Clean and Tidy section*
  - *Health and Safety section*
  - *Written Permission*
  - *Useful contacts section*
  
- **An expansion of:**
  - *Tenancy Agreement section*
  - *Use of Your Home section*
  - *Your Rent section*
  - *Repairs & Maintenance section*
  - *Gardens section*
  - *Vehicles & Parking section*

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- *Pets & Animals section*
- *Ending your tenancy section*

- 5.9. Members will note that the 'style' of the draft agreement is very different to the current tenancy agreement, which is attached at **Appendix 2**

It is the content of the document that is the focus of the consultation but comments may also be made on the style and format as it is very different to the current agreement. Members' may also express views on this aspect of the document. For this reason, it is likely that the final version may look different, following re-formatting and the addition of numbering.

## **6 Customer / Equalities and Diversity Implications**

- 6.1 It is considered best practice under Housing Regulatory Standards to provide tenants and customers with information that helps them understand their contractual obligations, and their rights as tenants.
- 6.2 Tenants also have the right to be consulted with and participate in the monitoring of services
- 6.3 It is essential in law that agreements take into account the diverse needs of tenants. Throughout the Housing Tenancy Agreement and Conditions it indicates where help and assistance can be obtained for those tenants with diverse needs.
- 6.4 Information on data protection rights and privacy statements are included as part of the agreement.

## **7. RISK MANAGEMENT**

- 7.1 There are no specific risks associated with revisions to the Tenancy Agreement and Conditions, however, should the agreement not be sufficiently robust enough to manage contracts with tenants, the following are the key risks associated:
- Increase in none rent payers and arrears
  - Sustainment of the Housing Revenue Account
  - Increase in Officer workloads
  - Increase in Anti-social behaviour
  - Organisational reputation
  - Risks to Tenants rights
  - Disputes between tenants and the Council

- 7.2 There is a risk that tenants may find it challenging to navigate the new style tenancy agreement, with its combination of tenancy provisions and information notes. This may be identified as part of the consultation

**8. APPENDICES and BACKGROUND PAPERS**

Appendix 1: Housing Tenancy Agreement and Conditions  
Appendix 2: Current Tenancy Agreement

**AUTHOR OF REPORT**

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