

Agenda Item

Executive Board

15 November 2006

JG/MH



Revisions to the Secure Tenancy Agreement

Summary

This report presents suggestions for updating the Secure Tenancy Agreement, which is the contract between the Council and the majority of Council tenants. The existing agreement has been used for a number of years, and has been reviewed and updated in the light of good practice and current landlord and tenant legislation.

A draft of a proposed revised Secure Tenancy Agreement has been presented to the Housing Review Board at their November meeting for consideration.

We have reached a stage where the small team working on the project have recommended the draft document for the purpose of consultation.

Recommendation

The Executive Board is recommended to approve the proposed variation to the Council's Secure Tenancy Agreement, and that the Head of Housing and Social Inclusion be given delegated authority to consider any tenant responses to the consultation, in deliberation with the Chair of the Housing Review Board, the Portfolio Holder – Communities and the Chair of the Tenant and Leaseholder Customer Panel.

a) Reasons for Recommendation

To give the Executive Board the opportunity to input into the revision of the Secure Tenancy Agreement.

b) Alternative Options

Not to change the Tenancy Agreement.

c) Risk Considerations

Having an out of date Secure Tenancy Agreement which hampers enforcement of tenancy conditions and does not clearly set out the duties and responsibilities of the parties to the agreement.

d) Policy and Budgetary Considerations

As set out in the report.

e) Date for Review of Decision

At the conclusion of the consultation period.

The Secure Tenancy Agreement

- 1.1 The Council's tenancy agreement is the contract between landlord and tenant, which sets out the duties and responsibilities of the parties in respect of rent payments, repairs, behaviour, and access to the property etc.
- 1.2 The Council has used the current Secure Tenancy Agreement for many years and it was felt appropriate to review the document having regard to current good practice, changes in legislation, Plain English, tenants aspirations etc.
- 1.3 We felt that our tenants should be involved in the review of the agreement and one of our Tenant Participation Officers has championed the project with a group of tenants to produce a revised version of the agreement. The project was initiated by a search for good practice examples, and the Blyth Valley Tenancy Agreement was one such example that we used in our review.
- 1.4 There has also been considerable officer input, particularly from colleagues in Legal and Member Services. The Tenant and Leaseholder Customer Panel has followed progress of the various drafts and had an input into the revised document. There is still a need for a final legal review of the document, but this is an opportune time in the review process to invite comments.
- 1.5 There are several controversial clauses in the revised draft agreement, particularly that area relating to the keeping of pets. The proposals are a relaxation of our current position where we forbid the keeping of cats or dogs in flats or maisonettes with communal entrances and/or gardens. This has proven a difficult clause to enforce.
- 1.6 It is important that the clauses relating to conducting the tenancy and anti-social behaviour, the condition of the home and garden, are clear, robust and enforceable. As we use these clauses as the basis of much of our estate management/enforcement work when things go wrong.
- 1.7 The draft revised Secure Tenancy Agreement has been reproduced as **Annex 1**. This is a complete rewrite of the current tenancy agreement, not simply an updating exercise.
- 1.8 The major changes can be summarised as:
- Layout and presentation;
 - Plain English;
 - Relaxed rules on keeping of pets;
 - No reference to timescales for external painting;
 - No specific domestic violence clause (see 4.2g & 4.5);
 - New clauses on :
 - Right to compensation for improvements;
 - Buying your home;
 - Insurance;
 - Service of legal documents;
 - Right to request a transfer;
 - Right to exchange;
 - Right to be consulted
 - Changes to the tenancy agreement;
 - Parking your car and motor vehicle;
 - Harmful or other dangerous materials;
 - Customer service;
 - Complaints;
 - Data protection Act.

1.9 Once the revised document has been agreed there will need to be a period of extensive consultation with tenants affected by the changes proposed to their contract with the Council. A legal procedure will need to be followed before we can formally issue the documents as the new Secure Tenancy Agreement. We must initially send out a 'preliminary notice' which will:

- Inform the tenant of the landlord's intention to serve a notice of variation;
- Specify the proposed variation and its effect;
- Invite the tenant to comment on the proposed variation in a specified (reasonable) time;
- Consider any comments within the specified time.

Failure to consider a tenant's comments in response to a preliminary notice would void the subsequent process.

1.10 We then need to send out a 'notice of variation'. This has the effect of:

- Specifying the variations;
- Giving the date on which it takes effect (the period between sending out a notice of variation and the effective date must be 4 weeks or the rental period, whichever is the longer);
- The 'notice of variation' shall be accompanied by such information as the landlord considers necessary to inform the tenant of the nature and effect of the variation.

1.11 At this stage I would like to invite the Executive Board to consider the new style agreement, comment on content, format and style, in order that we can finalise the draft for the purpose of consultation.

1.12 I will inform the Executive Board of any comments or amendments proposed by the Housing Review Board at their meeting held on 8 November.

Legal Implications

Attention is drawn to the procedure for implementing the Tenancy Agreement with regard to issuing a Notice of Variation.

Financial Implications

There are no financial implications arising from this matter.

Consultation on Reports to the Executive

Further and wider consultation on the revised Secure Tenancy Agreement with stakeholders is planned.

Background Papers

- EDDC Secure Tenancy Agreement.
- Report to the Housing Review Board 15 June 2006
- Blyth Valley District Council Secure Tenancy Agreement.