

**Meeting** Executive  
**Portfolio Area** Housing, Health and Older people  
**Date** 11 March 2020



## VARIATION OF TENANCY AGREEMENT AND CONDITIONS OF TENANCY

### KEY DECISION

Author: Denis Kinyera  
Resident and Estates Manager Ext. 2059

Contact Officer: Jaine Cresser  
Assistant Director, Housing and Investment Ext. 2028

### 1 PURPOSE

1.1 To obtain approval from Executive that the revised tenancy agreement be agreed.

To note the informal and formal consultation exercise carried out and what action has been taken as a result.

### 2 RECOMMENDATIONS

- 2.1 That the changes within the proposed tenancy conditions be agreed.
- 2.2 That the revised tenancy agreement and conditions, as attached at Appendix A to the report, be approved.

### **3 BACKGROUND**

3.1 The last review of the tenancy agreement was conducted in 2013.

Since the last review there have been changes in guidance on The Housing and Planning Act 2016, Anti-Social Behaviour, Crime and Policing Act 2014, General Data Protection Regulation and others.

Consultation took place with tenants, elected members and service areas across the Council.

The proposals were benchmarked against other neighbouring local authorities and registered social landlords.

Overall responses were positive and there are no major objections to the proposed changes.

### **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

4.1 Stevenage Borough Council requires tenancy conditions that are fit for purpose; the current agreement is seven years old and is no longer fit for purpose.

The review has provided officers an opportunity to look at how the council operates and what is best practice in the tenancy management sector of housing.

These proposed changes address enforcement issues and other problems that have come to light over the past few years. Making these changes will strengthen the tenancy agreement in the key areas below:

- Access to properties
- Antisocial behaviour
- Fire safety
- Health and safety
- Independent living
- Maintaining a pleasant neighbourhood
- Payment and charges
- Repairs and improvements
- Tenancy fraud
- Terminating your tenancy

- 4.2 The alternative option available is not to agree the proposed changes and maintain the existing conditions. However, this course of action is not recommended as consultation with residents and benchmarking with local authorities and registered social landlords evidence strengthened tenancy conditions allow for better management of tenancies for the council.

## **CONSULTATION**

- 4.3 Consultation took place with the following service areas of the Council:

- Community Safety
- Income Services
- Independent Living
- Lettings and Temporary Accommodation
- Senior Leadership Team (SLT)
- Stevenage Direct Services
- Tenancy Services

Consultation took place with Councillors and residents at the following forums:

- Housing Management Advisory Board (HMAB) – 19 July 2018. It was resolved that the Customer Scrutiny Panel and resident forums be consulted on the tenancy agreement; and that the tenancy agreement clarify that in relation to birds and vermin, the Council would not take action unless there was a real nuisance created
- Portfolio Holder Advisory Group (PHAG) – 24 January 2019. Having considered the draft changes, PHAG highlighted the following areas for follow up:
  - The need to improve clarity relating to additional occupants in Council properties (particularly for Independent Living properties).
  - Consistency of the Council's response to antisocial behaviour or rent arrears in cases involving children.
  - Challenges around evicting tenants with children.
  - Clarification of the number and types of pets that tenants can keep in their property.
  - Issues around parking permits and enforcement.

- Ensuring that the final Tenancy Agreement is clear and can be easily understood by our tenants who need to understand their responsibilities and the Council's responsibilities.
- Customer Scrutiny Panel - 15 February 2019

Strategic Leadership Team considered the draft on 11 February 2020. At this meeting, a recommendation was made for a comment on climate change and online services to be included as part of the mail out when it takes place. It was also resolved to liaise with the Communications Team to publicise the mail out prior to distribution.

An All Members' Briefing on this proposal took place on 18 February 2020. At this meeting, a request was made for consideration to be made around residents requesting permissions to keep pets, facilities to store bicycles and mobility scooters for residents who reside in flat blocks.

A further update on the formal consultation and its outcome was presented to HMAB on 20 February 2020. HMAB supported the proposals and agreed with the suggested amendments. A question was raised about duplication of visits, specifically the 8 month visit and the annual gas servicing visit. Officers clarified that the 8 month visit was a one off visit during first 12 month period of a introductory tenancy to inspect the property and tenancy before an introductory tenancy is confirmed, whereas the gas servicing visit was an annual visit for compliance checks as required by law. Technology will help to support alignment of these visits to ensure that customers are no inconvenienced.

The formal consultation process required that a Preliminary Variation Notice is sent to all secure and introductory tenants giving them a reasonable period of time to respond. The notice set out the proposed changes within the contact. The Preliminary Notice was sent out on the 25 September 2019, tenants were invited to comment on the proposed changes by the 25 October 2019 by way of a pre-paid return envelope or via email. 65 responses were received.

A dedicated e-mail address was set up where tenants could comment on the proposed changes. Tenants could also call directly to speak to the Resident and Estates Manager with any questions.

The final stage of the process will be to send out the final variation notice with an explanation of the changes to every tenant. The terms of the new conditions will come into force 28 days from the date of the final notice. Tenants will not have to sign and return the contract as the formal consultation is the legal process for bringing the revised contract into force.

## **TENANT RESPONSES AND OUTCOME OF CONSULTATION**

The total number of formal responses received from the consultation is 65 in addition to 482 calls received by the Customer Service Centre and Tenancy Services from residents regarding the Tenancy Agreement in the immediate weeks after mail out.

Each of the 65 responses was carefully considered and it was found many comments were service related questions to which each tenant has been contacted and had their query answered. Responses sought clarification on points in the proposed conditions detailed below:-

- Your commitments to us (1.7, 1.8, 1.9, 1.12)
- Fire safety (4.5)
- Gardens, trees and fences (4.12, 4.13, 4.18)
- Flammable gasses or liquids (4.21)

## **5 IMPLICATIONS**

### **Financial Implications**

5.1 Total cost of this project to date is £16264.33 against a budget of £20,000.

There is sufficient budget to cover the remaining estimated cost of £11,000 for mailing out the notice of variation in line with legal requirements once approved. The variance will be reviewed at third quarter budget monitoring.

### **Legal Implications**

5.2 The proposed variations to the tenancy agreement have been reviewed by the shared Legal Service to ensure its compliance with relevant legislation such as the Housing Act 1985 and the Localism Act 2011.

The council are legally required to carry out consultation with tenants and to consider any comments before the proposed changes are implemented. These have been duly followed.

### **Risk Implications**

- 5.3 There are no significant risks identified in relation to this report's recommendation.

### **Policy Implications**

- 5.4 Future changes to the existing Housing Allocations Scheme will mean need to consider these tenancy conditions – in particular clauses stipulated in 'Passing on your tenancy' as this relates to legislation on succession of secure tenancies.

### **Climate Change Implications**

- 5.5 To mitigate climate change implications, the proposed changes encourage correct disposal of waste and recycling. This is because recycling helps reduce greenhouse gas emissions by reducing energy consumption; saves energy and prevents extraction of raw materials; and helps to combat climate change as it also helps reduce waste, and therefore pollution.

The council will not issue this tenancy agreement to existing tenants however they will be able to access a copy of this on our website. The revised conditions will also be available to all tenants through the online housing portal when it goes live during 2020.

### **Equalities and Diversity Implications**

- 5.6 The contract has been reviewed and written in clear English.

The council provided large print copies of the Preliminary Variation Notice to tenants that require it and will also provide large print contracts and Variation notices.

Arrangements were made and any tenant(s) requiring assistance to read and under the proposed changes in order to make an observation was visited at their home by a member of Tenancy Services.

The proposed tenancy condition has clauses which mitigate equality and diversity issues.

An Equality Impact Assessment has been carried out which identified actions that are needed as a result that will help: remove discrimination and harassment; promote equal opportunities; and encourage good relations.

### **Community Safety Implications**

- 5.7 It has been reviewed by the shared Legal Service to ensure that the proposed conditions comply with the Anti-Social Behaviour, Crime and Policing Act 2014.

## **Information Technology Implications**

- 5.8 It will be necessary for the document to be accessible on the existing and proposed website under development. The designers commissioned to deliver this have taken steps to ensure it will be a live interactive document accessible on our corporate website.

## **6 PROPOSED CHANGES TO THE TENANCY AGREEMENT AND CONDITIONS OF TENANCY**

### **6.1 Access to property**

There are a number of cases where residents have refused access for tenancy audits, investigation of complaints or for repairs/improvements. Proposed change will clarify under what circumstances the council can enter a property.

### **6.2 Antisocial behaviour**

Proposed changes clarify that tenants do not need to seek permission for pets. Where a pet is proven to be a nuisance to staff and neighbours or breach any environmental protection the council will take action.

Advising residents where they can and cannot park, to comply with any parking conditions issued by the council and not to cause a nuisance or obstruction as parking permits are not enforceable.

### **6.3 Health and safety**

Proposed changes will advise that operatives are entitled to work within a smoke free environment under Public Health Act 2006, residents will be required to stop smoking for a sufficient period of time before an operative visits and refrain from smoking for the duration of the visit. Legal action will be taken against residents who threaten, abuse or assault staff or operatives.

Residents should not be keeping any items in the communal areas or close to the building. This includes mopeds, motorbikes, mobility scooters and electric wheelchairs. Fire safety remains a concern and it is proposed that any residents in flat blocks need to keep the communal area free of mats, carpets, rugs etc. If items are found in the communal areas they may be removed without notice and stored. They will be a charge to have these items returned. If the items are dangerous they will be disposed of immediately.

#### 6.4 Independent living

The proposed change will advise permission for relatives/family members to stay with a resident in Independent living schemes will only be given in exceptional circumstances and only for a certain period of time. If the service user in an Independent living schemes with additional care (flexicare) leaves the property on a permanent basis the council will work with the remaining person to find suitable alternative accommodation if they do not have the care need for the property and want to move.

#### 6.5 Maintaining a pleasant neighbourhood

Residents are responsible for maintaining their individual gardens and any trees or shrubs within them. It is proposed that if the council is made aware of a tree being a Health and Safety issue the council will carry out the work required without consultation and charge the full cost to the customer.

All residents are responsible to dispose of rubbish in bags or containers provided by us and not overfill them. This includes rubbish chutes as overfilling can cause blockages. It is proposed that if rubbish accumulates in a garden or home we may need to clear and treat vermin or pests. Customers will be recharged for the cost of this work.

#### 6.6 Payment and Charges

Rent charges are due every week and should be paid in advance. The council will send rent statements out every year so that customers can see payments that have been made. Customers will be encouraged to self-serve by using the online accounts facility. If a customer is due money for example in the way of compensation, disturbance or home loss this can be paid directly to rent accounts or any other housing related debt.

Tenants who receive the care support element are the only people who can get direct payments. All claims for financial assistance need to be made by the customer.

#### 6.7 Repairs and Improvements

The council wants to keep our properties and neighbourhoods in a good state of repair and customers need to help us with this.

The council will clean communal areas, keep any disturbance to a minimum and tenants are expected to be responsible for minor repairs and keeping

their home in a habitable condition. If they do not do this the council may take action. Tenants are also expected to report any repairs that are necessary and involve the police if it is criminal damage. If damage is caused by neglect, visitors or a deliberate act the responsible tenant be recharged the cost of the work. If the damage or disrepair is our responsibility the council will work with the tenant to carry the repairs out.

Residents should ask permission before making any improvements to their property and the council will charge for retrospective permission requests. If tenants make improvements and they require repair or maintenance the council will charge for this work.

## 6.8 Tenancy Fraud

The council will continue to ensure that its properties are allocated to only those in need of housing from the start of the tenancy until the end. This includes strengthened measures to investigate people who provide false information and the council will take possession action if necessary.

## 6.9 Terminating your tenancy

Proposed changes make the termination process clearer, the condition properties are expected to be left and when residents will be recharged, and how to terminate a joint tenancy. It also explains what information is required to end a tenancy from the customer's perspective and the documents the council are required to use to end a tenancy.

The proposed changes clarify that if the tenancy is ended alternative accommodation will not be offered. The proposed changes explain the rights the council have to repossess a property. These include if someone is decanted and will not return to their principal home, the property is unsafe and if the property is specially adapted for a physically disabled person.

Any day termination - currently the tenancy can only be ended on a Sunday. This move will allow greater flexibility on the date a tenancy can end and allow us to enable customers to move in more quickly and plan our void management tasks better.

## **BACKGROUND DOCUMENTS**

BD1 Existing tenancy agreement

## **APPENDICES**

A Proposed tenancy conditions.

B Proposed tenancy agreement for introductory and secure tenants.

C Preliminary notice of variation to the tenancy agreement