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## **AGREEING NEW TENANCY CONDITIONS**

To: **Cabinet - 20<sup>th</sup> January 2015**

Main Portfolio Area: **Housing and Planning Services**

By: **Councillor Richard Nicholson, Cabinet Member for Housing and Planning Services**

Classification: **Unrestricted**

Ward: **All Wards**

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**Summary:** In order to implement the Council's adopted Tenancy Strategy there is a need to develop new forms of tenancy agreement. While existing tenants will continue to enjoy the same secure 'lifetime' tenancies as they have previously, there is a need to ensure consistency in respect of tenancy conditions across all Council tenancy agreements.

At its meeting on the 13<sup>th</sup> November 2014 Cabinet approved a draft tenancy agreement template to be consulted on. The consultation process has been completed and this report advised on the outcome of this consultation and recommends the approval of the new tenancy agreement template attached at Appendix 1.

### **For Decision**

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#### **1.0 Introduction and Background**

- 1.1 The Localism Act 2011 introduced reforms relating to social housing tenure which came into effect from 1 April 2012 with the introduction of the new Tenancy Standard published by the Tenant Services Authority.
- 1.2 Cabinet has already approved a Tenancy Strategy as required by the Act which provides high level guidance to the providers of affordable housing in the district regarding the type and term of tenancies to be granted.
- 1.3 In summary the Strategy has introduced the following key changes to the type of tenancies it will grant:
- Following successful completion of their introductory tenancy, new tenants will be granted a five year, flexible (fixed term) tenancy.
  - Lifetime tenancies will continue to be offered to specific groups of applicants e.g. older tenants applying for sheltered housing.
- 1.4 Existing tenants are not to be affected by the new Policy and will continue to enjoy 'Lifetime' tenancies. However, there is a need to ensure that all Council tenancies are, as far as possible, subject to the same conditions of tenancy. It is therefore proposed that there should be a new tenancy agreement for:
- Existing secure, 'Lifetime' tenants

- New secure, flexible tenants
- Introductory tenants

1.5 It must be stressed that existing tenant's rights under their current tenancy agreement remain unchanged and that they will continue to enjoy secure, 'lifetime' tenancies.

1.6 The conditions of tenancy for secure tenants were last reviewed some years ago and it is considered necessary to change the conditions of tenancy to ensure they reflect updated legislation, regulations and current priorities for the Council and its tenants. In particular the new conditions seek to strengthen and clarify tenancy terms so as to enable the Council to deal effectively with Anti-Social behaviour and nuisance behaviour.

1.7 In consultation with East Kent Housing and the Council's legal service it was decided that the best way of ensuring consistency in respect of the new agreements was to develop a standard tenancy agreement template containing a standard set of conditions but with each new agreement having a different cover clearly describing the type of tenancy that had been granted.

## **2.0 Consultation**

2.1 Tenant representatives were consulted during the development of the new conditions of tenancy and a Preliminary Notice was served under Section 103(2) of the Housing Act 1985 which provided tenants with a six week period within which to submit comments.

2.2 There have not been any significant, formal responses to the Preliminary Notice and it is believed this is largely due to early tenant involvement in the development of the new conditions. The main clauses that have been reviewed are 3.6.2 regarding laminate flooring and 3.9.5 regarding commercial vehicles.

## **3.0 Options**

The options in respect of the policy are as follows:

3.1 Option A: To approve the draft tenancy agreement template attached at Appendix 1 so that for new tenants the new tenancy agreements can start to be used with immediate effect and for existing tenants a statutory notice can be served to enable the tenancy conditions to be varied.

3.2 Option B: To recommend amendments to the draft agreements.

3.3 Option C: To maintain the existing agreement for existing tenants and only introduce the new agreement for new tenants.

## **4.0 Evaluation of Options**

4.1 Option A is the recommended option as it is necessary for new tenancies to be introduced if the Council is to implement the Tenancy Strategy it has already adopted.

4.2 Option B is not recommended as it fails to demonstrate any commitment to implementing the Tenancy Strategy or to taking pro-active action to address problems of anti-social behaviour or to meeting housing need by making best use of the social housing stock. It would also result in tenants living next to each other being on different tenancy agreements.

4.3 Option C is not recommended as the agreements have been subject to a consultation process and any further changes could require further consultation with tenants.

## **5.0 Corporate Implications**

- 5.1 Comment from the Section 151 officer. “The printing and postage costs indicated can be accommodated within existing budgets and no resource implication has been advised in respect of the draft Tenancy Agreement”
- 5.2 Comment from the Solicitor to the Council: “The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make”.
- 5.3 Comment from the Equalities Officer: “This report does not specifically highlight any equalities implications however, in discharging their responsibilities, members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>.”

## **6.0 Financial**

- 6.1 The only significant resource implication directly arising from this report are the postage costs relating to the statutory notification process. The estimated cost of this is £2,500 for the Final 28 day Notice to be served on all. The costs can be met from HRA budgets.

## **7.0 Legal**

- 7.1 The adoption of the Tenancy Strategy by cabinet in November 2013 and by Full Council in February 2014 places a requirement on the council to deliver the strategy and this includes a review of the tenancy agreement.
- 7.2 The Housing Act 1985 sets out the legal process that the council must follow in order to make changes to the tenancy agreement and this report forms part of this process.

## **8.0 Corporate**

- 8.1 The Tenancy Strategy and the strategy decisions contained within it meet the council's corporate priorities for improving housing in the district.

## **9.0 Equity and Equalities**

- 9.1 The tenancy agreements directly reflect the new forms of tenancy set out in a Tenancy Strategy that has been approved by Cabinet. An Equality Assessment was undertaken in respect of the Tenancy Strategy.

## **10.0 Recommendations**

- 10.1 That Cabinet Approves:

The granting of new tenancies in accordance with the Council's approved Tenancy Policy on the new conditions of tenancy set out in the tenancy agreement template attached at Appendix 1 with effect from 1<sup>st</sup> April 2015.

That Notice of Variation under Section 103 of the Housing Act 1985 be served on all existing tenants varying the terms of all existing tenancies to those new conditions of tenancy as set out in the draft tenancy agreement template at Appendix 1 with effect from 1<sup>st</sup> April 2015.

## **11.0 Decision Making Process**

- 11.1 This is a Key decision for Cabinet.

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### **Annex List**

Annex 1	Draft Tenancy Conditions
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### **Background Papers**

<b>Title</b>	<b>Details of where to access copy</b>
Tenancy Strategy	Website

### **Corporate Consultation Undertaken**

Finance	Nicola Walker, Finance Manager, HRA, Capital and External Funding
Legal	Steven Boyle, Legal Services Manager