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## **AGREEING NEW TENANCY CONDITIONS**

To: **Cabinet - 13 November 2014**

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

By: **Councillor Richard Nicholson, Deputy Leader and Portfolio Holder for Housing & Planning Services**

Classification: **Unrestricted**

Ward: **Not applicable**

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**Summary:** **The Localism Act 2011 introduced the new Tenancy Standard which identified a series of changes to the types of tenancy agreements that can be granted.**

**Extensive consultation has been undertaken to review and update the tenancy agreements issued by East Kent Housing on behalf of Thanet District Council and this report seeks Cabinet approval to serve preliminary notice in respect of the proposed new tenancy conditions.**

### **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, including setting out the type and term of tenancies it will grant in respect of its own housing stock.
- 1.3 In summary the Strategy has introduced the following key changes to the type of tenancies it will grant:
- All new tenants will be granted an introductory ('probationary') tenancy for 12 months.
  - 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
- 1.4 Existing tenants are not affected by the new Strategy and will continue to benefit from '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 and expressed in the same language. It is therefore proposed that there should be new tenancy agreements containing new tenancy conditions for:
- Existing secure, 'Lifetime', tenants
  - New secure, flexible tenants
  - Introductory tenants

- 1.5 It must be stressed that the substantive rights enjoyed by existing tenants under their current tenancy agreement will remain unchanged and that they will continue to have 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 ASB 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 set of conditions.
- 1.8 Whilst the attached draft conditions of tenancy are substantially ready for consultation there may still be some minor technical points which will require amendment prior to the preliminary notices being served. It is therefore recommended that the Head of Housing Services be authorised to make these amendments prior to the service of the notices.

## **2.0 Consultation**

- 2.1 Section 103 of The Housing Act 1985 makes provision for the variation of existing tenancies by the service of formal notice of variation. It requires the Council to serve each tenant with a preliminary notice informing the tenant of the Council's intention to serve a notice of variation, specifying the proposed variation and its effect and inviting comments within such reasonable time as is specified in the notice.
- 2.2 East Kent Housing has been involved in the development of the new tenancy conditions and they will lead on the statutory notification procedure with existing tenants. It is proposed to allow a six week period for the receipt of comments.
- 2.3 The Area Board has been extensively consulted as part of drafting these conditions.

## **3.0 Options**

- 3.1 Option A: To serve a preliminary notice in respect of the draft tenancy conditions attached at Annex 1 in accordance with the statutory requirements.
- 3.2 Option B: To recommend amendments to the draft tenancy conditions.
- 3.3 Option C: To maintain the existing tenancy conditions for existing tenants and only introduce new conditions in respect of new tenancy agreements for introductory tenancies and flexible tenancies.

## **4.0 Evaluation of Options**

- 4.1 Option A is the recommended option as it will enable the Council to implement its Tenancy Strategy and introduce new forms of tenancy agreement with a consistent approach in respect of the tenancy conditions.
- 4.2 Option B is not recommended as the conditions are a draft to be issued under the preliminary notice procedure and therefore, Cabinet will have the opportunity to consider possible amendments to the conditions when it is reported back following the consultation process.
- 4.3 Option C is not recommended as it would result in tenants being subject to different tenancy conditions which would introduce complexity and potential confusion. It would also mean that improvements made to the proposed new conditions of tenancy would not

be applied to existing tenants and would not demonstrate a commitment to tackling tenancy related problems such as ASB.

## **5.0 Corporate Implications**

### **5.1 Financial**

- 5.1.1 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 preliminary notification and a further £2,500 at the time the new agreements are issued. We will however, endeavour to minimise such costs through the use of electronic communication. The costs can be met from HRA budgets.

### **5.2 Legal**

- 5.2.1 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.
- 5.2.2 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.

### **5.3 Corporate**

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

### **5.4 Equity and Equalities**

- 5.4.1 A full equality impact assessment was carried out as part of the adoption of the Tenancy Strategy.

## **6.0 Recommendation**

- 6.1 It is recommended that Cabinet approve the consultation required to introduce these changes by serving the notice in accordance with the statutory requirements.

## **7.0 Decision Making Process**

- 7.1 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 (Technical)
Legal	Steven Boyle, Interim Legal Services Manager & Monitoring Officer