

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio Holder for Housing and Health and/or Executive Director - Place

To: Policy Development Panel Wednesday, 7 November 2018
Strategy Board – Friday 7 December 2018
Strategic Growth Board – Friday 7 December 2018
Cabinet – Tuesday 15 January 2019

(Author: Vikki Cherry, Housing Services Manager)

Subject Revised Tenancy Agreement for Housing Tenants

Purpose: To advise Members of the consultation process required to amend SHDC's Introductory and Secure Tenancy Agreement

Recommendation(s):

- 1) To note the intention to update the Council's Introductory and Secure Agreement
- 2) That note the formal consultation process required to make changes to the tenancy agreement

1.0 BACKGROUND

- 1.1 The Tenancy Agreement was last reviewed in 2011 to reflect the implementation of Introductory Tenancies (where tenants have a year's trial with reduced rights (extended to a maximum of 18 months). All tenants were last consulted on changes to the Agreement in 2005. (Tenants were not consulted on the 2011 Agreement as the changes only affected new tenants).
- 1.2 The new Agreement will set out the rights and responsibilities of the Council and our tenants, and applies to Introductory and Secure tenancies only. Non-secure tenancies are not currently being reviewed. There are no proposals to offer Fixed Term tenancies. Failure to adhere to the tenancy agreement can result in warning letters, legal notices, fines and ultimately possession.
- 1.3 There is a legal requirement to consult with tenants on any changes to the Agreement (as per the Housing Act 1985). Relevant internal stakeholders (including Legal and Communities) are being consulted with.
- 1.4 The majority of changes will be around clarity and ability to enforce as well as strengthening the rights and responsibilities of tenants. The main changes suggested are as follows:
 - Photos of the property condition at point of tenancy commencement to be attached to the Agreement.
 - Tenants confirm they are willing to accept the property in its current condition.

- Requirement for rent to be paid in advance for new tenancies. This has been the process for approximately 12 months, however was not referenced in the previous Agreement.
- The ability to apply for possession of a property where the tenant makes repeat late payments of rent. Legislation allows for this, but it was not referenced in the previous Agreement.
- Right to deduct money for rent/arrears/Court Costs from any money owed to the Tenant by the Council.
- Tenants required to take responsibility for claiming benefits and updating agencies of changes in circumstances.
- Reference to the service charge required of Sheltered Tenants – this charge has been required for many years but was not stipulated in the previous Agreement.
- Failure to engage with necessary support e.g. floating support will be considered a breach of the Agreement.
- Tenants must move into their home immediately upon the tenancy starting.
- Tenants are required to provide contact details for a key holder if they intend to be away from the property for more than 28 days – this is in order for access to be available in the case of an emergency.
- The definition of overcrowding has been changed from Statutory Overcrowding (referenced in the 1985 Housing Act) to the Council's Allocations Policy. (Natural growth of a family is not considered a breach of the Agreement).
- Permission required to install hard flooring such as laminate. This is to ensure adequate provisions are in place to avoid sound travelling. Hard flooring will not be approved in flats.
- Tenants must not allow an accumulation of personal property, rubbish or other items to prevent or obstruct any access to the property. This allows the authority to address hoarding issues.
- Requirement to allow access for electrical checks – this is a legal requirement.
- Tenant's responsibility to check and monitor battery operated smoke and carbon monoxide detectors.
- Not to block access to emergency service vehicles when parking cars.
- Fire safety – any items left in communal areas will be disposed of. Smoking and use of e-cigarettes in enclosed communal areas is not permitted.
- Lifts must not be blocked/interfered with. Legal action will be taken against any deliberate damage caused.
- Permission must be requested for pets (other than caged rodents, small caged birds and fish in a tank) – this allows us to consider the request on a case by case basis including the type of pet, the property type and location. Permission will not be granted to keep pets in flats (apart from official support companions). (Existing tenants will continue to be allowed a maximum of 2 dogs, 3 cats whilst they remain at the same address).
- Being a good neighbour – expanding on what is considered anti-social behaviour
- Overgrown gardens will be treated as a 'nuisance' as per Anti-Social Behaviour legislation.
- Succession and assignment updated to reflect new legislation. Note – this section has been worded loosely as the Housing and Planning Act 2016 proposes amendments to succession rights, but there are no timescales around implementation at this stage.
- Additional wording has been added to repairs and re-charging sections in order for the authority to recover costs for work that is the tenant's responsibility.

- 1.5 The Agreement will reflect the following new pieces of legislation:
- Antisocial Behaviour, Crime and Policing Act 2014
 - Localism Act 2011,
 - General Data Protection Regulation 2018.
- 1.6 The consultation for the Agreement review will be conducted in accordance with sections 102-103 of the Housing Act 1985. The Housing Services Manager will write to all tenants informing them by a Preliminary Notice that we wish to vary the terms of the Tenancy Agreement. The intention is to issue this Notice in February 2018. In addition to the Preliminary Notice, tenants will be provided with a summary of changes and a draft copy of the Agreement with details of how to respond with their comments. Tenants will be given a period of 28 days consultation. New tenants that sign their tenancy agreement after the Preliminary Notice is sent will be issued with a copy of the Preliminary Notice at the point of sign up. A page on the Council's website will be produced setting out the information above. All comments will be logged and will inform the final Tenancy Agreement. It is intended that authority to sign off the final Agreement (following consultation) is delegated to the Portfolio Holder for Housing.

2.0 **OPTIONS**

- 2.1 To note the intention to update the Council's Introductory and Secure Agreement and the formal consultation process required to make changes to the Tenancy Agreement.
- 2.2 Do nothing, continue to operate under the conditions of the existing two Tenancy Agreements.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 The reason for reviewing the Agreement is to provide an updated Agreement for tenants to reflect changes in legislation and operational practice. The revised document is clearer and easier for tenants to understand, helping them to meet their obligations as a tenant and sustain their tenancy. A revised Tenant's Handbook will also be produced as part of this work.

4.0 **EXPECTED BENEFITS**

- 4.1 One Agreement in place, reducing confusion for Officers and Tenants.
- 4.2 Addressing concerns regarding fire safety including storage of items in communal areas.
- 4.3 Use of the Antisocial Behaviour, Crime and Policing Act 2014 through warnings and notices to address issues such as untidy gardens and noise nuisance. Penalties include financial penalties and prosecution, orders for work to be carried out and charged to the tenant, and possession of the property.
- 4.4 Reduction in rent arrears due to the requirement of payment of rent in advance for all new tenants, and formal action being taken for the repeat late payment of rent.

- 4.5 Improved property condition through the ability to treat hoarding as a breach of tenancy and considering overgrown gardens to be cases of anti-social behaviour/nuisance.
- 4.6 Reduction in complaints as a result of the flexibility on the number of pets depending on property size, and also ability to withdraw permission if issues arise from pets. Dogs no longer being allowed in flats (for new tenants).
- 4.7 Reduction in outgoings through a stronger emphasis on repairs and re-charging tenants for work that is their responsibility. Photos of the condition of the property at sign-up will support this.

5.0 **IMPLICATIONS**

5.1 **Carbon footprint / Environmental Issues**

- 5.1.1 It is a legal requirement to serve the Notice and proposed Agreement on all tenants. This requirement will be met by printing and posting papers out. The authority does not have reliable contact details for tenants to send the papers by email and so could not guarantee they have been served.
- 5.1.2 A section will be added to the website for tenants to update their contact details. The link to this section of the website will be included in letters and tenants will be encouraged to complete this as part of their response to the consultation. (This exercise will assist with future communications to tenants by email on non-legal matters).

5.2 **Constitutional & Legal**

- 5.2.1 The review of the Tenancy Agreement meets a statutory requirement. There is a requirement for the review to be conducted in accordance with sections 102-103 of the Housing Act 1985.
- 5.2.2 The Council is at risk of legal challenge around fulfilling the terms of the Housing Act 1985, section 103. A tenant may challenge the variation on the basis of not being consulted or not receiving a copy of the preliminary notice. The Notice will be posted to all tenants (along with a copy of the proposed Agreement), and information will be added to the Council's website to mitigate this risk.

5.3 **Corporate Priorities**

- 5.3.1 The Agreement review underpins the relationship between the Council as a landlord and its tenants, by delivering sustainable tenancies, and therefore more settled communities. This helps to support the Council's priority of having pride in South Holland by supporting the district and residents to develop and thrive, and developing safer, stronger, healthier and more independent communities whilst protecting the most vulnerable.

5.4 **Crime and Disorder**

- 5.4.1 The Agreement refers to the Antisocial Behaviour and Policing Act 2014. There are many tools available under this Act to address nuisance including the issue of Community Protection Notices and fixed term penalties, injunctions and mandatory possession in extreme cases of antisocial behaviour.

5.5 **Equality and Diversity / Human Rights**

- 5.5.1 There is a potential for certain groups to be disadvantaged by the terms of the tenancy agreement, for example, tenants on a low income.

5.5.2 Tenants may struggle to pay the required rent in advance. Officers have the ability to reduce this amount on a case by case basis. Assistance is available (in the form of a grant) to existing Housing Benefit/Universal Benefit claimants towards rent in advance payments through the authority's Discretionary Housing Payment scheme. Many social landlords require rent in advance.

5.5.3 Affordable payment arrangements will be available to tenants to repay the charge for repairs that are the responsibility of the tenant.

5.5.4 Tenants whose first language is not English may require additional support to ensure they fully understand the terms of the Tenancy Agreement. Copies of the Agreement will be translated upon request.

5.6 **Health & Wellbeing**

5.6.1 Sustainable tenancies will support the health and wellbeing of residents of South Holland.

5.7 **Financial**

5.8 The Housing Revenue Account will incur the cost of printing and postage to send the required notice and Agreements to all households.

5.9 **Risk Management**

5.9.1 The Council must ensure that all tenants receive a copy of the Preliminary Notice and sufficient information to understand the proposals being considered. Postage is considered an acceptable means and the authority is not required to provide proof of postage/similar.

5.9.2 The terms of the Agreement must be seen to be reasonable, not interfere with the tenant's right to respect for family and private life and not discriminate on equality grounds unjustifiably.

5.10 **Stakeholders / Constitution / Timescales**

5.10.1 Internal stakeholders are in the process of being consulted with. External stakeholders will be consulted at the same time as tenants. The Agreement is intended to be 'live' by early summer 2019 (due to the legal timescales involved with consulting and informing tenants).

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 The review of the Agreement affects all wards.

Background papers:-

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Key Decision: N

Exempt Decision: N

This report refers to a Mandatory Service

