

BRIEFING PAPER

SUBJECT: TENANCY AGREEMENT – PROPOSED AMENDMENTS
DATE: 16 DECEMBER 2019
RECIPIENT: OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

THIS IS NOT A DECISION PAPER

SUMMARY:

Following consultation, a decision-making report regarding proposed amendments to the Tenancy Agreement for tenants living in council housing will be considered by Cabinet on 17 December 2019.

BACKGROUND and BRIEFING DETAILS:

1. The council's current Tenancy Agreement has not had any significant update since 2003 and there are a number of clauses which could now benefit from change. The proposed changes have been prepared after taking into account consultation feedback. The consultation was carried out with all current Southampton City Council (council) tenants, prospective tenants and residents of Southampton. The proposed tenancy agreement is modern, fit for purpose, allows better alignment with welfare benefits and clearly sets out both the Council's and tenants' rights and responsibilities. In reviewing the Tenancy Agreement regard has been had to the Tenancy Strategy 2013-17 and the Housing Strategy 2016-25.
2. The Cabinet report recommends that Cabinet note the result of the consultation exercise and the summary of proposed changes to the council's secure tenancy, detailed in Appendix 1, and that Cabinet agree to the implementation in April 2020 of the proposed Tenancy Agreement. It is also recommended that any minor amendments to the text for the Tenancy Agreement be finalised by the Head of Service following consultation with the Cabinet Member (apart from any amendments to the terms of the tenancy which would need to follow the statutory process). Finally, it is also recommended that the Tenancy Agreement be kept under regular review in the future and if any major changes are required then these will be brought forward for a decision.
3. It is important that a tenancy agreement is kept up to date in terms of legislative requirements. As stated the council's current Tenancy Agreement has not had any significant update since 2003 and there are a number of clauses which could now benefit from change as detailed below.
4. The proposed minor changes to the Tenancy Agreement are outlined in Appendix 1. The main clauses identified include:
 - Number of rent payments – currently the annual rent and other charges are split into 48 weekly payments (49 in a 53 week year). This means there are four non-rent weeks each year. We wanted to change this to 52

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weekly payments to bring it in line with other council charges and to encourage regular payments.

- Garden maintenance – has always been the tenants responsibility. The amendment highlights this responsibility.
- Antisocial behaviour – we are introducing stronger clauses to help us deal with antisocial behaviour and to also protect vulnerable tenants and victims of domestic abuse.
- Subletting – tenants are not allowed to sublet their council home. Following the change in legislation we have highlighted that tenants can face criminal prosecution if found guilty of tenancy fraud.
- Health and Safety – the change includes more details about how tenants can keep safe in their home and communal areas and what they need to do to reduce fire hazards.
- Any day tenancy start date – to enable flexibility of start dates in the future.

5. Consultation on the proposals took place between 25 July 2019 and 16 October 2019. The following activities were carried out as part of the consultation:

- Letter sent to all council housing tenants to make them aware of the proposals and consultation including a phone number for the Tenant Engagement Team in order to request a copy of a paper questionnaire if required.
- A link to the consultation questionnaire, current tenancy agreement, draft proposed tenancy agreement, table of proposed changes, letter to residents, frequently asked questions and the Equalities and Safety Impact Assessment were included on the consultation section of the council website.
- Articles in Tenants' Link article and Tenants' Link specials.
- Promotion in the Southampton City Council e-alert, Your City Your Say.
- Promotion on Southampton City Council social media pages and also council housing pages.
- The consultation was discussed at the following groups: Block Rep Forum, Supported Housing Forum, Joint Tenants Panel.
- There was a notice on the Homebid portal to advise applicants on the Housing Register.
- New tenants were made aware of the consultation at the sign up to their new tenancy.
- The consultation was promoted to leaseholders in council blocks in their annual statement.
- Paper copies of the consultation were left in all libraries, supported housing complexes, and local housing offices.
- An e-mail was sent out to all Housing Services Staff to ensure that staff were aware of the proposed changes and were able to answer tenant's enquiries.
- E-mails were sent to: all local Tenants Associations; SCC Homebid partners (Housing Associations and registered providers); Citizens Advice Bureau; Age UK.

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- Five drop-in events were held.
 - One to one interviews took place where requested.
 - Translations were made available upon request.
6. In summary the council wrote to 16,000 households and the responses received were:
- 700 calls to phone line
 - 80 attendees at drop-in events
 - 363 written responses of which:
 - 347 questionnaire
 - 16 e-mail and letter
 - 230 of total responses were from tenants
7. Feedback from the consultation confirms that the majority of respondents agreed with all of the proposed changes. Agreement ranged from a majority of 60% of all respondents for the changes to the non-rent weeks through to 93% agreement for the proposed changes around domestic abuse in the antisocial behaviour section. None of the proposed changes had a majority that disagreed with the change as noted in Appendix 2 of the Cabinet Report.
8. In addition 79% of respondents agreed that the new proposed tenancy agreement was easy to understand and 53% agreed that the proposed changes would have a positive impact if implemented.

RESOURCE/POLICY/FINANCIAL/LEGAL IMPLICATIONS:

Capital/Revenue

9. If approved by Cabinet on 17 December 2019, the implementation of the changes to the Tenancy Agreement will cost £20k which includes the printing of letters, replacement tenancy agreements and the postal costs of writing out to all tenants. These costs will be paid from the Housing Revenue Account (HRA).
10. There will be no further costs for software to the Northgate Housing IT system if the change to the 52 weeks is made, but staffing time will be required for the implementation and testing of new processes.

Property / Other

11. The properties are all owned by the HRA.

Legal Implications – Statutory power to undertake proposals in the report:

12. Section 9 of the Housing Act 1985 (HA 85) gives Local Authorities the power to provide housing accommodation. Section 21 of the HA 85 gives general powers of management of housing accommodation. Section 102 and 103 of the HA 85 give Local Authorities the power to vary the terms of fixed and periodic secure tenancies. The process includes the service of a preliminary notice to vary tenancy terms and a period of consultation prior to any decision to vary the terms of the tenancy (other

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than variations only involving rent, rates and charges which do not require a preliminary notice)). Once a decision has been made to vary a tenancy a notice of variation needs to be served on all affected tenants giving at least 4 weeks' notice of the variation of the terms before it is effective.

13. Southampton City Council has a compact agreement with local voluntary agencies which gives a commitment that consultations will be for a minimum of 12 weeks.
14. Southampton City Council has a published statement of arrangements for consultations pursuant to Section 105 of the HA 1985 which confirms consultations on housing management will be for a minimum of 12 weeks.

Other Legal Implications:

15. The Council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions, including changing or updating documentation, that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.
16. Homes England is the Regulator for Social Housing. The Regulator publishes Regulatory standards that all registered providers of social accommodation must comply with. This includes the tenant standard which states that social landlords must meet all applicable statutory and legal requirements including in relation to the terms of tenancies.

Risk Management Implications:

17. The risk level is low. The tenancy agreement has not been updated for 16 years and the revision of it will bring all the terms used in the agreement up to date.

Policy Framework Implications:

18. This is consistent with and not contrary to the Council's policy framework.

Appendices/Supporting Information:

1. Summary of Recommendations Table for Tenancy Agreement – including summary of feedback
2. Equality and Safety Impact Assessment (ESIA)

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