

# **HOUSING MANAGEMENT CONSULTATIVE COMMITTEE**

## **Agenda Item 32**

Brighton & Hove City Council

<b>Subject:</b>	<b>Chairman's Working Groups (Tenancy Agreement)</b>		
<b>Date of Meeting:</b>	<b>23 September 2008</b>		
<b>Report of:</b>	<b>Director of Adult Social Care &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Diane Freeland</b>	<b>Tel:</b> 293202
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<b>Wards Affected:</b>	<b>All</b>		

### **FOR GENERAL RELEASE**

#### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 To present the results of the tenant led Chairman's Working Group considering the development and adoption of a revised tenancy agreement for tenants living in council housing.

#### **2. RECOMMENDATIONS:**

- (1) That the Housing Management Consultative Committee note the conclusions of the working group outlined in the presentation and draft tenancy agreement attached at Appendix 2.
- (2) That the Housing Management Consultative Committee endorse the conclusions of the working group which will be taken forward as the basis for wider consultation with stakeholders and tenants on the development and adoption of a revised tenancy agreement for tenants living in council housing and forward to the housing cabinet member for approval.

#### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Housing Management Sub Committee 15 January 2008 considered reports from the initial chairman's working groups. At the Housing Management Sub Committee on 11 March 2008 the chairman announced the creation of a working group to review the current tenancy agreement to operate in a similar way to those already reviewing other areas

- 3.2 The present version of the tenancy agreement was last reviewed over 10 years ago with minor amendments since then. We need to develop a clear, fair, transparent and easily understood tenancy agreement in consultation with tenants and other stakeholders, which incorporates good practice.
- 3.3 A working group consisting of tenant and leaseholder representatives and officers was set up to undertake a time limited review of a revised tenancy agreement. The group met 3 times from 3 April to 19 May 2008. A summary of the work of the group, its members, key themes arising and issues to be addressed is attached within the presentation as Appendix 1. The group were keen to have an agreement, which was comprehensive yet accessible to all of our tenants. The group considered guidance from the Law Commission on the structure of agreements.
- 3.4 The group considered examples from local housing providers and high performing authorities (including Southampton, Eastbourne, Westminster, Derby Homes and Carrick District Council). The group also referred to the proposed agreement for Brighton & Hove City Housing and highlighted areas of importance to residents. They wished for the agreement to mirror leases as far as practicable.
- 3.5 A draft agreement was produced and agreed at the meeting on the 19 May, which is attached as Appendix 2. This draft will now be subject to consultation with internal stakeholders and will be subject to a plain language review. The terms will also be reviewed to determine they are fair and comply with the Office of Fair Trading guidance on fairness of terms for tenancy agreements.
- 3.6 A final meeting was held on the 14 August 2008 to prepare the presentation of the groups findings to be given at the Housing Management Consultative Committee. The presentation is attached as Appendix 1.
- 3.7 Once a final draft is agreed there will be a 28-day consultation period when all tenants will have the opportunity to provide comments on the agreement. These comments will be considered and discussed with the working group and any final changes will be made to the agreement. A 28-day formal variation notice will then be issued to all tenants. The Tenant Handbook will also be updated to reflect the new conditions.
- 3.8 A number of key themes emerged from the meetings, which tenant representatives wish to see addressed. These included:
- 3.9 **Floor Coverings** – Our current policy is that all floor coverings should be removed when a tenant moves out of their property. The group felt that this was wasteful if the floor coverings were in a good condition and the group would like this policy to be reviewed. This proposal has since been considered and an agreement has been reached with contractors to demonstrate more flexibility.

- 3.10 **2 week rent waiver following the death of a tenant.** The council's current policy is to waive 2 weeks rental liability if after the death of a tenant the executor wishes to clear the property within the first two weeks of the notice period. The group would like to see this policy decision added into the agreement.
- 3.11 **Succession.** The group felt that all tenants need to understand this complex piece of legislation, as it remains an area of confusion. The focus group would like to see this included in the Tenant Handbook.
- 3.12 **Photographs of Tenants.** A number of housing providers operate a photo ID scheme for new tenants. These schemes aim to prevent fraud by enabling the council to identify unauthorised occupants and tenants who have illegally sublet their homes. The focus group would like to explore this option with officers and tenants.

#### **4. CONSULTATION**

- 4.1 In order to ensure full and effective consideration of the proposals to develop and adopt a revised tenancy agreement it is proposed that the issues raised and the draft agreement produced will provide the basis for wider consultation with stakeholders and tenants.
- 4.2 The progress of this consultation exercise and the formal consultation with tenants will be subject to consideration by the tenant led review group prior to reporting back to Housing Management Consultative Committee.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### 5.1 Financial Implications:

The estimated cost of adopting a revised tenancy agreement is approximately £10,000, which includes communications for the initial production of the agreements, the associated postal costs for consulting with tenants and issuing variation notices.

These costs will be met within the existing Housing Revenue Account Budget 2008/09.

When exploring the option of a photo ID scheme for tenants the focus group will also need to consider the costs of the scheme, which would include initial start up costs and ongoing annual costs.

*Finance Officer Consulted: Susie Allen, Principal Accountant 1 August 2008*

## 5.2 Legal Implications:

The terms of a secure tenancy can be varied in accordance with section 103 of the Housing Act 1985. This involves service of a preliminary notice on tenants, which specifies the variation with its effect and invites tenants to comment within such time, as the landlord considers reasonable. The landlord must consider those comments. If the landlord wishes to go ahead with the variation, a formal notice of variation has to be served, allowing at least four weeks between service and the notice taking effect. The final draft of the revised tenancy agreement will be subject to further legal scrutiny as appropriate.

*Lawyer: Deborah Jones*

*: 19 August 2008*

## 5.3 Equalities Implications:

The development of a revised tenancy agreement will be undertaken with due regard to equalities and diversity issues and will be subject to an Equalities Impact Assessment which will be completed in October 2008.

## 5.4 Sustainability Implications:

There are no direct implications arising from this report. Housing is one of the 12 key objectives in the Council's sustainability strategy, which aims to ensure that everyone has access to decent affordable housing that meets their needs.

## 5.5 Crime & Disorder Implications:

A revised tenancy agreement will positively contribute to preventing crime and the fear of crime by stating the types of Anti Social Behaviour that is prohibited and the enforcement action that the council can take should such behaviour occur.

## 5.6 Risk and Opportunity Management Implications:

None

## 5.7 Corporate / Citywide Implications:

The development of a revised tenancy agreement will have citywide implications for council tenants.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Continue with the existing tenancy agreement. However this is not recommended, as it does not allow the council to take advantage of developments in best practice. We need to ensure that we have a comprehensive agreement, which covers all areas of tenancy management and reflects the priorities that are important to the council and tenants.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To consult members of Housing Management Consultative Committee on the conclusions of the Tenancy Agreement Focus Group.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix 1 – Tenant Focus Group Presentation
2. Appendix 2 – Draft Tenancy Agreement

### **Documents In Members' Rooms**

None

### **Background Documents**

None