

**DECENT & AFFORDABLE HOMES PDG  
20 JANUARY 2015**

**PROPOSED REVIEW OF TENANCY AGREEMENTS**

**Cabinet Member** Cllr Ray Stanley  
**Responsible Officer** Housing Services Manager

**Reason for Report:** To inform Members about the proposed review of tenancy agreements used by Housing Services when letting Council homes.

**RECOMMENDATION(S):** To agree the action plan relating to this project.

**Relationship to Corporate Plan:** The provision of good quality housing in the public sector is a priority for the Council and there is a commitment to achieve this by managing our Council homes efficiently. A robust tenancy agreement which sets out the rights and responsibilities of tenants and the Council is required to enable efficient and effective management of our homes.

**Financial Implications:** Reviewing the tenancy agreement for all types of tenure offered by the Housing Service will involve detailed consultation with tenants and staff. The cost of stationery, printing and postage could be up to £12,000 excluding Officer's time and will be contained within existing budgets in the Housing Revenue Account.

**Legal Implications:** As a registered provider (RP) of social housing, the Council is obliged to take account of the standards contained within the revised regulatory framework which is administered by the Homes and Communities Agency (HCA). This states that RPs should meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.

Section 102 and 103 of the Housing Act 1985 provides that in England and Wales the terms of a secure tenancy (other than those implied by statute) may be varied, therefore correct compliance of legislation is a requirement to prevent any legal challenges.

**Risk Assessment:** It is good practice to review tenancy agreements on a regular basis to take account of changes to legislation and to ensure that housing management staff have the tools available to manage the housing stock efficiently and effectively.

**1.0 Introduction**

1.1 Introductory and secure tenancy agreements were reviewed late 2009/early 2010. Since that time, flexible tenancies (2 and 5 year terms) have been introduced and this has now created an opportunity to revisit the existing conditions of tenancy and amend them where appropriate to be in line with statutory requirements and good practice.

## **2.0 Proposed Changes**

- 2.1 There are a number of key areas which will need to be given consideration prior to consultation. This will be achieved by researching good practice in housing management and complying with statutory requirements. In particular, it may be advantageous to combine the current three tenure types (introductory, secure and flexible) used and incorporate them into one document.
- 2.2 Currently, a separate secure and introductory tenancy agreement is issued if a property has solar panels, however it may be beneficial if the clauses are incorporated into a standard tenancy document. This would help to minimise any Officer error.
- 2.3 Other clauses of the existing agreements may also need to be reviewed to give greater clarity and to accommodate some of the operational issues that have arisen in recent years. Examples would include:
- The inclusion of a requirement to give access for a tenancy home check and to provide evidence of identity to reduce potential tenancy fraud.
  - The inclusion of a provision requiring rent to be paid in advance rather in arrears.
  - The inclusion of a clause making the tenant liable to continue paying any former tenant debt that they have with us.
  - Bringing the section that relates to pet ownership into line with the policy on pets and animals.
  - Specifying that the use or consumption of drugs on premises for personal use is not permitted except where prescribed for medical purposes and explain what action would be taken for any offences under the Misuse of Drugs Act.
  - Specifying that the keeping of offensive weapons in the property is not permitted, even if they are only for ornamental purposes.
  - The inclusion of clauses relating to hoarding to make it easier for Officers to take action in cases where health and safety is being compromised.
  - Specifying that pest control is the tenant's responsibility.
  - The inclusion of provisions to stop tenants laying laminate flooring in flats.
  - Tightening up the clauses relating to parking. In particular, to prevent blocking access to garages or turning points in designated parking areas; and to compel tenants to seek permission for boats to be parked on front gardens.

## **3.0 Consultation**

- 3.1 Section 105 of the Housing Act 1985 obliges the Council to undertake detailed consultation with tenants in relation to the review of the tenancy agreement.
- 3.2 The Council is also required to serve Notice on tenants in accordance with sections 102 and 103 of the Housing Act 1985. The Council must notify tenants that it intends to serve them with a Notice of Variation in order to change their conditions of tenancy. This must inform tenants of the key changes and their effect and give them an opportunity to comment.

- 3.3 At the end of the consultation period, a formal Notice of Variation must be sent to all tenants giving them notice of the date that the new terms and conditions come into effect. The notification period must be at least 28 days. The updated tenancy agreement can be enclosed with the Notice.
- 3.4 Once the new tenancy agreement is issued with the Notice of Variation, it will come into effect twenty-eight days later.

#### 4.0 Key Actions and Timescales

- 4.1 The following table sets out the proposed action plan:

Task	Timescale	Action
Research good practice on Tenancy Agreements, including legal implications and challenges.	March 2015	Housing Policy Officer
Produce article for Housing News 4U newsletter (April's edition) advising tenants of Tenancy Agreement review and advertise opportunities for tenants to become involved in shaping the new agreement.	March 2015	Housing Policy Officer
Responses by interested tenants required by end of May.	May 2015	
<b>Consultation process</b>	April – July 2015	Front line Housing staff and other Council services areas
Set up consultation sessions with Members and staff.	April 2015	
Set up Focus group and meeting dates.	June 2015	
Commence telephone/email consultation.	June 2015	
Consultation with other services to check legality of proposed changes and ensure it complies with the Competition and Markets Authority Guidance on unfair terms in Tenancy Agreements which was originally published by The Office of Fair Trading.	June 2015	SIG, Focus group and adhoc consultation groups
Take proposals to SIG.	July 2015 (second Thursday of the month)	
Research different formats of the tenancy agreement taking into account the needs reflected in the Housing Service current tenant profile and those of future tenants.	June 2015	Housing Policy Officer
Procure printing of Preliminary Notice, new Tenancy Agreement and Notice of Variation.	June 2015	Housing Policy Officer

<p>Prepare draft tenancy agreement.</p> <p>Check draft tenancy agreement is clearly laid out and written in plain language.</p>	<p>July 2015</p> <p>July 2015</p>	<p>Housing Policy Officer</p>
<p>Prepare Preliminary Notice of variations including covering letter and list of proposed changes, inviting comment form tenants.</p>	<p>July 2015</p>	<p>Housing Policy Officer</p>
<p>Send Preliminary Notice of Variation to tenants. Send notice to all tenants by post.</p>	<p>August 2015</p> <p>Allow 4 weeks for consultation.</p>	<p>Housing Policy Officer</p>
<p>Prepare and circulate report on feedback from tenant consultation and note any amendments resulting from this to SIG for October's meeting.</p> <p>Update draft Tenancy Agreement.</p>	<p>September 2015</p>	<p>Housing Policy Officer</p>
<p>Circulate draft tenancy agreement for approval at October's SIG meeting.</p>	<p>October 2015</p> <p>(second Thursday of the month)</p>	<p>Housing Policy Officer</p>
<p>Report to Decent and Affordable Homes PDG advising of results of tenant consultation and seeking approval of the new tenancy conditions.</p>	<p>November 2015</p>	<p>Housing Services Manager and Housing Policy Officer</p>
<p>Make any further amendments to Tenancy Agreement in preparation to be sent out with Notice of Variation.</p>	<p>November 2015</p>	<p>Housing Policy Officer</p>
<p>Circulate draft tenancy agreement to all Members and insert article in the WIS.</p>	<p>November 2015</p>	<p>Housing Policy Officer, members and SIG members</p>
<p>Prepare and post notice of variation to all tenants together with a copy of the new Tenancy Agreement with commencement date.</p>	<p>TA comes into effect no less than 28 days after Notice is posted out.</p> <p>By end of November 2015</p>	<p>Housing Policy Officer and Legal</p>
<p>Staff training for sign up proposes.</p>	<p>November/beginning of December 2015</p>	<p>Housing Policy Officer</p>

Write article for Housing News 4U newsletter Xmas edition launching new Tenancy Agreement.  Update website.	December 2015	Housing Policy Officer
<b>Ad hoc</b> Regular updates of review using social media, SMS texting and any other advertising opportunities available.  Regular discussions with the Cabinet Member for Housing to discuss progress in relation to the project.	Throughout Tenancy Agreement Review period  Throughout Tenancy Agreement Review period	Housing Policy Officer/Tenant Involvement Co-Ordinator  Housing Policy Officer

**Contact for more Information:** Claire Fry, Housing Services Manager (01884 234920 cfry@middevon.gov.uk)

**Circulation of the Report:** Councillor Ray Stanley, Management Team

**List of Background Papers:** A copy of such papers to be made available for public inspection and included on Website