

Report title: **Changes to Tenancy Agreement**

Forward Plan reference number:

Report of: **Director of Social Services**

Ward(s) affected: All

Report for: **Key Decision**

**1. Purpose**

This report summarises comments received from tenants in response to a preliminary notice of intention to vary the tenancy agreement, issued in April 2006. It sets out recommended amendments to the proposals in the preliminary notice and provides, at appendix 3, the final proposed new tenancy agreement.

**2. Introduction by Executive Member**

- 2.1 As part of a continuing review of all our procedures we are updating various aspects of the tenancy agreement in the light of comments and concerns received from ward councillors, tenants and our own staff and in order to ensure that we are compliant with new legal requirements.
- 2.2 This report provides a summary of the key changes recommended by officers and the outcome of a wide consultation exercise with service users. I would welcome any additional comments or suggestions members of the Executive have, before proceeding to the next phase of the implementation plan.

**3. Recommendations**

- 3.1 That Members:
- Note tenants' comments in response to the notice of intention to vary the tenancy agreement.
  - Approve the recommended amendments in section 8.1.
  - Approve the final proposed new tenancy agreement set out in appendix 3.

**Report Authorised by:**

**Director of Social Services**

**Contact officer:** Arin Akin,  
**Project Manager**  
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#### **4. Executive Summary**

4.1 In order to amend the tenancy agreement, the prescribed procedure for variation under section 103 of the Housing Act 1985 must be followed. This requires that the Council serve a preliminary notice of intention to vary the tenancy agreement on all tenants and invite comments in response. In making its decision on changes to the tenancy agreement, the Executive is required to take into account a summary of tenants' comments.

4.2 This report summarises comments received from tenants in response to a notice of intention to vary issued in April 2006. Based on those comments and in line with the prescribed procedure, the report sets out recommended amendments to the proposed tenancy agreement. It also highlights further stages required to vary the tenancy agreement.

#### **5. Reasons for any change in policy or for new policy development (if applicable)**

- Appendix 1 shows the original tenancy agreement and Appendix 2 the notice of intention to vary that was sent to tenants. Key changes proposed in the notice included:
  - A section strengthening the clauses regarding access (clauses 50-55). This will help enable the Council to meet its statutory obligation to undertake annual gas safety checks. It will also help to enable occupancy checks, as well as pest control and other works.
  - Identity photographs, which will help address fraud and unauthorised sub-letting.
  - New clauses on rubbish disposal (clauses 9-12)
  - Changes in line with guidance from central government such as:
    - An increase in the amount of information in the tenancy agreement
    - A new section on tenants' rights (clauses 73-83)
- As a result of comments from tenants and in line with the prescribed procedure, further amendments have been recommended to certain clauses. These changes, and the reasons for them are set out in section 8.1.

## **6. Local Government (Access to Information) Act 1985**

Background documents:

Housing Act 1985, section 103

Report to Executive of 22 November 2005: Changes to Tenancy Agreement

## **7. Background**

On 22 November 2005, the Executive noted the results of consultation undertaken under section 105 of the Housing Act 1985 on demoted tenancies and identity photographs. The same report highlighted further stages in the review of the tenancy agreement, including consultation on further changes. This was undertaken in April and May 2006 in accordance with section 103 of the Act, by means of tenants' comments in response to a notice of intention to vary the tenancy agreement.

## **8. Description**

This report summarises tenants' comments in response to a preliminary notice of intention to vary the tenancy agreement (Appendix 2), issued by the Council in April 2006. Section 103 of the Housing Act 1985 requires the Executive to take these comments into account in making its decision on the proposed tenancy agreement (Appendix 3).

Section 8 of this report provides a summary of comments from tenants. Section 8.1 sets out comments that resulted in recommendations to amend the tenancy agreement. Section 8.2 highlights key comments that did not, with a summary of the Council's responses to tenants. In addition, a fuller summary of comments from tenants and the Council's responses is contained in Appendix 4.

### **8.1 Summary of comments from tenants, with recommended amendments**

As a result of tenants' comments on the preliminary notice of intention to vary (Appendix 2), in accordance with the prescribed procedure, this report recommends amendments to a number of clauses in the tenancy agreement. These are set out below.

#### **8.1.1 Clause 8**

It is recommended that clause 8 is amended as follows:

From: You, or anyone staying in or visiting your home, must not keep any bottled gas or paraffin in your home or in communal areas. You, or anyone

staying in or visiting your home, must not keep quantities of petrol or any other inflammable or dangerous material in your home or in shared areas, except those that are reasonably needed for normal domestic use.

To: You, or anyone staying in or visiting your home, must not keep any bottled gas or petrol in your home or in communal areas. You, or anyone staying in or visiting your home, must not keep quantities of paraffin or any other inflammable or dangerous material in your home or in shared areas, except those that are reasonably needed for normal domestic use.

Summary of comments from tenants:

- Several tenants stated that older people in particular may need to use paraffin heaters in their homes because they are much cheaper than electric heaters. They stated that prohibition of paraffin heaters would increase the risk of older people becoming ill due to cold weather.

### **8.1.2 Clause 29**

- A number of tenants commented that the tenancy agreement should prohibit food dropping for pigeons

It is recommended that clause 29 is amended as follows (amendment in italics):

Clause 29: Examples of behaviour which is likely to cause nuisance and annoyance are:

- banging doors, shouting and playing loud music;
- allowing family members to behave in an unruly way;
- putting graffiti on Council property; and
- using the property for illegal or immoral purposes, including prostitution and using and supplying any illegal substance.
- *putting out food for squirrels, pigeons etc.*

This is not a complete list. Please contact us if you are not sure about what behaviour causes nuisance and annoyance. Contact details are given in the Tenants' Charter.

### **8.1.3 Clauses 33b and 33c**

Summary of comments from tenants:

- Wood flooring and stone tiles create noise problems if no underlay is installed.
- A request for additional examples of alterations and improvements in Cause 33b
- The tenancy agreement should have a clause similar to the one in the leasehold agreement that requires “substantial floor covering to avoid the transmission of noise”. Without such a clause, the Council’s treatment of its tenants is inconsistent with its treatment of leaseholders.

It is recommended that clause 33 is amended as follows (amendment in italics in sub-clause 33b and insertion of a new sub clause 33c to address non-permanent hard flooring):

You must get advance written permission from the Council in the following circumstances:

33b: Before making alterations or improvements to the property or outside areas. This includes:

- removing any fixtures or fittings belonging to the Council (*this includes kitchen or bathroom fittings*)
- *structural alterations such as removing walls or partitioning*
- installing burglar-proofing equipment, such as steel doors, grill doors or window bars; and
- installing any permanent wall finishings, such as coverings that are glued or nailed to the walls (examples include and ceramic wall tiles;
- installing any permanent floor finishings, such as coverings that are glued or nailed to the floor (examples include laminated or wood flooring, and ceramic floor tiles);
- putting up any structure on the spaces outside your property, such as putting up sheds or fences or installing a satellite dish.

33c:

- *from Day/ Month/ 2006, before installing a hard floor such as wood, laminate or ceramic tiles or exposing bare floorboards in the property. A requirement for permission is that you must install a high quality acoustic underlay of a grade approved by the Council.*

#### **8.1.4 Clause 45**

- Some tenants commented that it may not always be practical to report a fault. The reasons given were that they had sometimes experienced difficulty in getting through on the phone and there are some repairs that the Council is not responsible for.

It is recommended that clause 45 is amended as follows (amendment in italics):

- ◆ If any faults or damage (*that the Council is responsible for repairing*) occur to the property, you must report it to us as soon as is reasonably possible. We may charge you for any damage caused by you failing, without good reason, to report faults or damage.

#### **8.1.5 Clause 50**

- Some tenants asked whether Council employees and agents that visit their home will always carry identification.

It is recommended that clause 50 is amended as follows (amendment in italics):

50 You must allow council workers, or people we have sent to your home, reasonable access to your home to inspect or carry out occupancy checks, repairs, maintenance *including statutory gas maintenance*, improvements, or other work. *Such workers or agents will carry identification.*

#### **8.1.6 Clause 64**

- Tenants expressed concerns regarding the definition of a commercial vehicle

It is recommended that clause 64 is amended as follows (amendment in italics):

From: You must get written permission from the Council before you, or anyone staying in or visiting your home, parks any heavy trade or commercial vehicle or any caravan or motor home on the property or on any outside space, hardstanding or communal space.

To: You must get written permission from the Council before you, or anyone staying in or visiting your home, parks any heavy *goods* vehicle or any caravan or motor home on the property or on any hardstanding, communal space or Council land.

#### **8.1.7 Clause 65**

Summary of comments from tenants:

- Concern was expressed regarding special circumstances, such as tenant's being hospitalised

It is recommended that clause 65 is amended as follows:

From: You must not park any untaxed vehicle on Council land. This applies even if you have a Statutory Off Road Notification (SORN) for the vehicle.

To: You must not park any untaxed vehicle on Council land. If you have a Statutory Off Road Notification (SORN) for a vehicle, *you must get written permission from the Council before you park it on Council land. Permission will only be granted in exceptional circumstances.*

#### **8.1.8 Clause 70**

Summary of comments from tenants:

- this is not consistent with the Dogs (Fouling of Land) Act 1996

It is recommended that clause 70 is amended as follows (amendment in italics):

From: If you, or anyone staying in or visiting your home, have a pet, you or anyone staying in or visiting your home must keep it under control and not allow it to cause nuisance or annoyance to anyone in the locality of your home, or damage the property or communal areas. For example, you must not let your pet foul the communal areas, roads or other areas around your home.

To: If you, or anyone staying in or visiting your home, have a pet, you or anyone staying in or visiting your home must keep it under control and not allow it to cause nuisance or annoyance to anyone in the locality of your home, or damage the property or communal areas. *For example, if your pet fouls the communal areas, roads or other areas around your home you must remove any faeces and dispose of it appropriately. If your pet fouls or urinates in the communal areas you must clean the affected area.*

## **8.2 Summary of additional comments from tenants**

This section highlights key comments that did not result in recommendations to amend the tenancy agreement. It also sets out responses from the Council. A fuller summary of comments from tenants and the Council's responses is contained in appendix 3.

### **8.2.1 Clause 4**

Clause 4: You must let the Council know if you will be away from home for more than a month.

- Several tenants objected to the requirement to notify the Council when they plan to go away for more than a month. Some said this was an infringement of their civil liberties. A number questioned the need for this requirement if the rent is being paid.

The response was as follows:

This requirement is necessary in order to prevent problems such as:

- repeated requests for access (for example, for gas servicing) from being sent to a tenant who is away,
- concerns being raised about the safety of older tenants,
- unsuccessful attempts to contact the tenant in the event that squatters were to break into the property,
- the need to force entry in the event of an emergency (as tenants will be asked to provide emergency contact details).

### **8.2.2 Clause 5**

Clause 5: You, or anyone staying in or visiting your home, must not keep belongings (including bicycles or mopeds) in any communal areas, such as landings, corridors, entrance halls and stairs. You, or anyone staying in or visiting your home, must not block any shared areas, including access routes.

Summary of comments from tenants:

- Some objections were received to the prohibition of bicycles in entrance halls. One tenant wrote that this clause is not consistent with the Government's green agenda. She mentioned that carrying a bicycle daily up and down several flights of stairs is not practical and leaving it outside overnight (even when locked) is not safe.

The response was as follows:

Bicycles kept in entrance halls often create health and safety risks. A number of bicycle shelters have recently been constructed as part of Haringey's pilot Estate Cycle Parking Scheme. Further shelters have been proposed in the Council's draft local implementation plan. However this proposal will be subject to funding and resident support.

### **8.2.3 Clause 15**

Clause 15: You must allow Council officers or agents to take a photograph of you and to keep your photograph on our records as part of the Council's Tenant Audit System, designed to prevent and detect fraud. The Council will not pass on this photograph to anyone, except under data-protection law. For more information, see the Tenants' Charter.

- Several tenants objected to the requirement to be photographed. Some stated that this is an infringement of their civil liberties.

The response was as follows:

- Consultation of all tenants on this subject was carried out in October 2005. More than 70% of respondents approved of this requirement, as a way to prevent and detect sub-letting and fraud. However, on receiving a request from the Council to be photographed, if a tenant has a particular objection, this should be put in writing. Any such objection will be considered by the Council.

### **8.2.4 Clause 37**

Clause 37: You are responsible for certain repairs inside your home, such as repairing internal doors, fixtures and fittings such as floor coverings (including tiling), kitchen cupboards, drawers, work surfaces, and curtain tracks and rails. This is not a complete list. See the Repairs Handbook for more information.

Summary of comments from tenants:

- Several tenants objected to the fact that they are responsible for these repairs.

The response was as follows:

- Clause 37 is not a change from the Council's previous policy, although it provides more detail than the previous tenancy agreement.
- The Council initially lets its properties in good condition. From then on, the tenant is responsible for maintenance of certain aspects of the property (details are contained in the Repairs Handbook).
- However it is the Council's policy to repair or replace items if the fault is deemed to be the result of fair wear and tear.

## **8.3 Further stages in the variation of the tenancy agreement**



Following the decision of the Executive, a notice of variation will be sent to tenants. This will specify the changes to the tenancy agreement that have been approved by the Council and the date on which they will take effect.

## **9. Consultation**

9.1 This report summarises comments from tenants in response to the Council's preliminary notice of 26 April 2006, of its intention to vary the tenancy agreement.

### **9.2 Target Group**

The target group was Council tenants

### **9.3 Consultation Period**

The consultation period was from 26 April to 29 May 2006. However, comments received until early June 2006 have been included in this report.

### **9.4 Method**

Consultation was undertaken in accordance with the procedure prescribed by section 103 of the Housing Act 1985. A preliminary notice of intention to vary the tenancy agreement was sent by the Council to tenants. The notice set out the proposed variations and their effects and invited comments from tenants.

### **9.5 Hard to Reach Groups**

Consultation material and other information for tenants was offered in Haringey's 10 main community languages, as well as in Braille, audio tape, large print and picture-and-symbol format.

### **9.6 Feedback**

Information summarising the outcomes of this consultation will be publicised through Homezone, the newsletter for tenants of Haringey Council.

## **10. Financial Implications**

There are no material financial consequences arising from the proposed changes to tenancy conditions.

## **11. Comments of the Head of Legal Services**

11.1 The Head of Legal Services has been consulted in the preparation of this report.

11.2.1 Members are being asked to approve changes to Haringey's existing tenancy agreement which was last amended in 1999. The proposed changes to the content and format of the tenancy agreement are fair and easier to understand. The changes are therefore in accordance with the Unfair Terms in Consumer Contracts Regulations 1999 and recent guidance by the Office of Fair Trading and the Audit Commission.

11.2.2 The changes to the tenancy agreement will come into effect on the date specified in the notice of variation which must be not be less than 4 weeks after the date on which the notice is served.

## **12. Comments of the Director of Finance**

The Director of Finance concurs with the financial implications set out in the report and has no further comment

## **13. Equalities Implications**

13.1 Safeguards will be included in the Housing Department's procedures to ensure that vulnerable people, including those with mental health problems and learning difficulties, are protected under the new tenancy agreement.

13.2 Outcomes of the changes will be monitored by ethnic background, age, gender and disability.

## **14. Use of Appendices**

Appendix 1: The original tenancy agreement

Appendix 2: Preliminary notice of intention to vary the tenancy agreement, dated 26 April 2006

Appendix 3: Final proposed new tenancy agreement

Appendix 4: Summary of comments from tenants