

Report title: **Changes to Tenancy Agreement**

Forward Plan reference number:

Report of: **The Director of Housing**

**Ward(s) affected:** All

**Report for:** Key Decision

**1. Purpose**

- 1.1 This report summarises the results of consultation on demoted tenancies and identity photographs and outlines further stages in the review of the Council's tenancy agreement.

**2. Introduction by Executive Member**

- 2.1 In recent years we have been undertaking a major good housekeeping review of all aspects of the housing service, under the broad slogan of "Rights & Responsibilities".
- 2.2 The service has introduced already a range of changes on both counts (ie on the one hand implementing tougher measures against those who default without a good reason on their rents and service charges and tougher Anti-Social Behaviour related action, and on the other hand enshrining within our tenants charter increased rights to proper consultation, access to better support mechanisms (eg through the expanded partnership with the CAB and various Supporting People projects), stronger and more effective complaints and appeals procedures and more choice based systems in a range of areas, to mention a few examples.
- 2.3 The effort throughout has been on getting the balance right and ensuring that service users are being consulted, are supportive of the proposed refinements and understand the rationale of the changes at every stage. The overriding concern is to safeguard and whenever possible strengthen tenants and leaseholders rights and choices, whilst minimising as far as possible heavy handed and arbitrary restrictions.
- 2.4 The measures outlined in this report are part of this ongoing search for refinements in our relationship with our service users, and as the report demonstrates they have been refined through research, careful evaluation and extensive consultation.
- 2.5 They have to be considered not in isolation but in the context of all the other measures that have been introduced and are being considered for the future and

they are designed to improve the balance between the responsibilities of a small number of anti-social tenants and the rights of all tenants (e.g. to enjoy a relatively clean and safe environment in their estates) and those on our waiting lists (i.e. ensuring that scarce council properties are allocated according to need and clear criteria, rather than fraudulent methods).

### **3. Recommendations**

#### **3.1 That Members:**

- Note the results of consultation.
- Note further stages in the review of the tenancy agreement.
- Approve the introduction of demoted tenancies.
- Approve an amendment to the tenancy agreement requiring identity photographs of tenants.

#### **Report Authorised by:**

**Director of Housing**

**Contact officer: Arin Akin,  
Service Development Project Manager**  
**Telephone: 020 8489 4612**

### **4. Executive Summary**

4.1 Consultation on demoted tenancies and identity photographs was undertaken from June to October 2005. This report summarises the results and highlights further stages in the review of the Council's tenancy agreement.

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

- Identity photographs will help address fraud and unauthorised sub-letting.
- The use of demoted tenancies is expected to reduce incidents of anti-social behaviour and help prevent rent arrears. If the introduction of demoted tenancies is approved, arrangements will be put in place for reviews (see section 10.2) in accordance with the Demoted Tenancies (Review Of Decisions) (England) Regulations 2004.

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

Background documents:

Housing Act 1985 section 82A (as amended by Anti-Social Behaviour Act 2003)

Housing Act 1985 sections 103 and 105

Report to Executive of 19 April 2005: Proposed Changes to Conditions of Tenancy

## **7. Background**

7.1 In April 2005, as part of a review of the Council's tenancy agreement, the Executive approved proposals to consult on demoted tenancies and identity photographs. Consultation was undertaken between June and October. This report summarises the results of the consultation and highlights further stages in the review.

## **8. Description**

### **8.1 Results of consultation**

8.1.1 Area Housing Forums were consulted in June and July 2005. The forums supported proposals for demoted tenancies and identity photographs.

8.1.2 A consultation pack was sent to all secure tenants in September 2005. This comprised information (appended to this report) on demoted tenancies and identity photographs, with a questionnaire. Over 400 responses were received.

8.1.3 Of tenants who responded to the question on demoted tenancies, 80% supported the proposal, 15% were undecided and only 5% were against it. 87% of respondents favoured a requirement for housing applicants to be photographed, but fewer (74%) supported applying this to existing tenants.

Comments included the following:

- Several tenants said that demotion does not go far enough. They suggested faster and more preventative measures.
- The North Tottenham Area Housing Forum specifically requested that the Council Executive again consider the use of Introductory Tenancies.
- A number of tenants felt that it would not be cost effective or appropriate to photograph existing tenants

8.1.5 Agencies were consulted through a range of means. Presentations were given at the Anti-Social Behaviour Partnership Board and the Haringey Anti-Social Behaviour Liaison Group. In addition, agencies and community groups (list appended to this report) were consulted via letters. Feedback from organisations included:

- The Council must ensure robust investigations, so that tenants are not unfairly demoted, for example due to malicious reports.
- Safeguards should be put in place to ensure that vulnerable people are not demoted inappropriately.

### **8.2 Identity photographs**

8.2.1 There is evidence that in some London boroughs, individuals and gangs have committed organised fraud when applying for council housing. Identity photographs of applicants have been found to deter fraudulent applications.

8.2.2 The proposed change to the tenancy condition (section 3 above) would allow the Council to photograph all tenants. It is however envisaged that at present, the Council will continue to photograph only housing applicants. The reasons for this are listed below.

- Since 2002, the Council has carried out very effective periodic checks for unauthorised occupants in its properties. In the year to March 2005, these checks identified 67 such households. A recent feasibility study recommended that even without photographs, occupancy checks are sufficient to identify existing unauthorised occupants.
- The study considered 2 options for photographing existing tenants:
  - **Photographs taken in Council offices**  
The study found that 7 years would be required to photograph all tenants at Council offices. This estimate assumes that a second Council office is equipped with photographic facilities. It allows for tenant lateness and non-attendance and technology downtime (a particular photographic format is required for the OHMS housing database) as well as time to check the identity of attendees and explain both the scheme and data protection issues. The study concluded that due to the time required, this option is not feasible
  - **Mobile technology with photographs taken in tenants' homes**  
This would require the development of mobile technology with the ability to interface with OHMS. The cost of this option (including staff time) was found to be in excess of £325,000.

### 8.3 Further stages in the review of the tenancy agreement

8.3.1 In addition to identity photographs, the following amendments to the tenancy agreement are proposed:

- A specific clause requiring tenants to place refuse only in chutes, bins and bulk refuse facilities.
- Amendments to strengthen the Council's right to access to carry out repairs and maintenance (such as gas servicing).

These amendments arise from consultation with the Tenancy and Estate Management Panel and the Resident Repairs Panel respectively. They do not require consultation under section 105 of the Housing Act 1985.

8.3.2 In order to amend the tenancy agreement, the prescribed procedure for variation under section of the 103 Housing Act 1985 must be followed. This requires that a preliminary notice of intention to vary is served on all tenants. The notice must set out the proposed variations and their effects, and invite comments.

8.3.3 The preliminary notice will be followed by a notice of variation, specifying the date on which the changes to the tenancy agreement will take effect.

## 9. Consultation

9.1 Council tenants and other stakeholders were consulted on demoted tenancies and identity photographs

### 9.2 Target Groups

- Council tenants
- Partner organisations, advice agencies and community groups

### 9.3 Consultation Period

- Area Housing Forums: June and July 2005
- Consultation of all tenants under Section 105 of the Housing Act 1985: September and October 2005
- Agencies: September and October 2005

### 9.4 Methods

Consultation methods were as follows:

- Presentations and discussions at Area Housing Forums
- In accordance with Section 105 of the Housing Act 1985, information was sent to all tenants on identity photographs and demoted tenancies. Contact details were given and a questionnaire was provided, including space for additional comments.
- Agencies and community groups were consulted via letters and meetings.

### 9.5 Hard to Reach Groups

A wide range of community groups and agencies (list appended) were contacted, including those representing vulnerable and/or non-English speaking tenants.

Consultation material and other information for tenants was offered in Haringey's 6 main community languages, as well as in Braille, audio tape and large print. Responses to the resident's questionnaire were monitored by ethnicity, disability, age and gender.

65% of respondents identified their ethnic background as White, 20% as Black, 1% as Asian and 5% as other ethnic groups. Nine per cent did not respond to the question on ethnic background. 48% were disabled, 39% non-disabled and 13% did not respond to this question. 50% of respondents were male, 44% female and 6% gave no response.

**Table 1: Age of Respondents**

Age group	Percentage
18-25	1%
26-44	14%
45-64	33%
65-80	35%
Over 80	11%
No response to the question on age	6%
<b>Total</b>	<b>100%</b>

Table 1 shows the age groups of respondents. Most respondents came from the 65-80 and 45-64 age groups, accounting for 35% and 33% of questionnaires respectively. However a significant number of responses (14% and 11% respectively) came from tenants aged 26-44 and those over 80.

#### **9.6 Feedback**

A bulletin summarising the outcomes of this consultation will be sent to tenants and other stakeholders.

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

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

10.2 Variations to the terms of the Tenancy Agreement must strictly follow the prescribed procedure under s103 Housing Act 1985 .

10.3 A demoted tenant has the right to request a review of the Council's decision to seek an order for possession against him or her. This is an internal review undertaken by the Council and it is a statutory requirement that the Council put in place arrangements to carry out such reviews. The arrangements must comply with the Demoted Tenancies (Review of Decisions) (England) Regulations 2004."

### **11. Equalities Implications**

- If the changes are approved, 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 these policies.
- Outcomes of the policies will be monitored by ethnic background, age, gender and disability.
- Also see 9.5 above.

### **12. Use of Appendices**

Appendix 1: List of organisations consulted on demoted tenancies and identity photographs

Appendix 2: Consultation pack used for tenant consultation under section 105 of the Housing Act 1985