

Meeting:	Tenants and Leaseholders Consultative Forum
Date of Circulation:	30 th October 2006
Subject:	FOR INFORMATION - Revised Tenancy Agreement
Responsible Officer:	Gwyneth Allen Head of Housing
Portfolio Holder:	Housing
Exempt:	NO

SECTION 1 – SUMMARY

This report sets out the consultation exercise that will take place in October/November 2006 with all Council tenants in respect of the proposed changes to the Tenancy Agreement and Tenancy Terms and Conditions.

FOR INFORMATION

SECTION 2 - REPORT

2.1 Brief History

2.1.1 The initial approval to develop a revised Tenancy Agreement and to commence the statutory consultation process with all Council tenants was given by Cabinet in 2005. This report

informs TLCF of the progress to date with the implementation of this project.

- 2.1.2 Experience of tenancy management, for example in combating anti-social behaviour, has seen the development of tenancy terms and conditions in other local authorities that better meet the needs of both the Council and tenants while making clear each party's obligations, but those are not reflected in the existing Tenancy Agreement in Harrow.
- 2.1.3 Case law and legislative developments have occurred that are not adequately reflected in the existing Tenancy Agreement in force in Harrow.
- 2.1.4 Technology has developed to enable the use of digital photographs that are easier to store, can be reproduced accurately, and are not subject to the same deterioration as traditional photographs.
- 2.1.5 Officers will not have as much leverage with tenants in dealing with issues such as nuisance and anti social behaviour if the new clauses are not implemented
- 2.1.6 A working group made up of Council Officers, Tenant Representatives and a Consultant from another housing organisation was set up in July 2006 to review and update the Council's tenancy agreement. The working group examined a previous draft tenancy agreement produced a year earlier by Harrow Officers and in producing a revised draft, took into consideration current best practice adopted by other local authorities in the development of their tenancy agreements.
- 2.1.7.1 The issuing of Tenancy Agreements is currently a paper based system and for several years the Council has required tenants to provide photographs of themselves. The intention is now to begin using digital photography to take and store these images in place of more traditional methods. This will only apply to new tenants not existing tenants. This will assist Officers in the detection of illegal sub-letting and of housing fraud.

2.1.8 A number of changes to the Terms and Conditions of the Council's Tenancy Agreement are also being proposed. These changes are intended to deal more forcefully with anti-social behaviour, and to extend the clauses under nuisance and harassment. There are also additional clauses on repairs, animals, shared areas, vehicles and information, consultation and participation and service of documents.

2.2 Format of the Tenancy Agreement

2.2.1 Cameras connected to a computerised software package will be installed in the Housing Office to be used at each 'tenancy sign-up'. The tenant will be provided with a computer printed Tenancy Agreement with their colour photographs on the front page. The technology is also being installed in Harrow's Housing Needs Department for all new housing applications and when the applicant becomes eligible for permanent rehousing (usually within 2 to 3 years) their details including digital photograph will be electronically transferred at the tenancy sign up stage.

2.2.2 The photographs will be stored on the computer anonymously with a reference number rather than a name, a procedure that the company supplying the equipment has advised is necessary to comply with the Data Protection Act.

2.2.3 Three other London Boroughs are also using this same technology, Brent, Southwark and Haringey although it is likely that the number of local authorities using similar technology will increase over the next few years as they become aware of the benefits of using this system.

2.3 Terms and Conditions

2.3.1 A summary of the effect of the main changes to the terms and conditions are set out below:

(a) Introduction to tenancy terms and conditions – This sets the scene and summarises the purpose of the agreement. The proposed introduction aims to explain the legal concepts in plain English, which has not been done before. Some rights and obligations that are included in the introductory section of the

current tenancy agreements have instead been set out in more detail later in the proposed version for the sake of clarity.

- (b) Rent and other charges – This is designed to be clearer than the current version. The rent section, like all others, has been written in plain English. For example, the explanation of joint tenants' liability has been simplified, as has the concept of arrears. The section makes plain that tenants may be charged for services that the Council provides. The section deals with how monies paid by the tenant will be applied. The agreement sets out the circumstances in which additional amounts may be added to the rent account.
- (c) Repairs – Section 11 of the Landlord and Tenant Act 1985 is the primary source of the Council's repairing obligations. It is a matter of good practice to reflect the wording of s.11 in the tenancy agreement – the current version does not necessarily do that. The proposed version aims to gather together all obligations and rights relating to the state of the premises for ease of reference. It also includes the annual checking of gas appliances (except cookers) and the responsibilities of tenants to maintain their homes and to notify the council of certain matters. This proposed section expands considerably on the version in the current tenancy agreement to make clearer the rights, responsibilities, and obligations for the Council and the tenants.
- (d) Access – Refusal of or failure to give access for such purposes as repairs or gas inspections has caused the Council to incur significant costs in previous years. The proposed amendment is designed to make it clear to tenants what is expected of them and the notes explain why it is expected. It will always be preferable to obtain a tenant's permission before forcing access to the premises. The proposed section also clarifies the position in relation to tenants who have to be accommodated elsewhere on a temporary basis.
- (e) Using your home – The proposed version covers all matters relating to the physical use of the premises, whereas this is fragmented under different topics in the current version.
- (f) Nuisance and Harassment – Reduction of anti-social behaviour is a primary objective of Harrow Council's Housing department. It is

hoped that the proposed amendments will facilitate better neighbour relations and enforcement, and will mean that all tenants are subject to the same prohibition of anti-social behaviour. The proposed section brings together more clearly (in one section) the clauses dealing with these issues, which are separate in the current agreement.

- (g) Flats, maisonettes, and shared areas - This proposed section has been included to deal specifically with flats, maisonettes, and shared areas. The language used in this section has been simplified to avoid use of terms such as “communal” and to explain in greater detail the tenants’ obligations, particularly because of the wider disturbance and nuisance that can be caused to other residents in such accommodation.
- (h) Pets – The current version of this clause is quite brief when explaining tenants’ obligations and rights relating to keeping pets in their homes. The proposed version explains tenants’ rights and obligations in greater detail.
- (i) Parking and vehicles – The proposed version is broadly similar to the current version, the main difference being that it sets out in more detail an explanation for the requirements. It also expands on the current version, making specific reference to un-roadworthy, untaxed, illegally parked, and abandoned vehicles.
- (j) Information, consultation and participation – The current version is virtually silent on matters of consultation, information and participation. Harrow is firmly committed to tenant participation and the proposed version is written to reflect that commitment, making it a contractual obligation of the Council to involve tenants (should they wish to be involved).
- (k) Leaving your home and ending the tenancy – The current version contains quite different wording under this topic. The main effect of the proposed version is to simplify this section.
- (l) Notices – The proposed clauses in this section aim to simplify the process for serving of notices by the Council on tenants, or by tenants on the Council.

2.4 Consultation

- 2.4.1 In addition to sending out the required preliminary notice, a schedule listing venues for evening consultation meetings across the borough will be included within the documentation sent to all council tenants. Should tenants require further clarification they will be able to attend one (or more) of the evening consultation meetings where Officers will be available to answer any queries. Tenants will be able to choose which date and venue is most convenient and accessible for them from a list of 20 venues.
- 2.4.2 As can be seen from the attached timetable, Officers intend to report to Cabinet on 18th January 2007 so that the new Tenancy Agreement can be implemented from 2nd April 2007. The final report will contain information about the outcome of the consultation process and the final version of the Tenancy Agreement will be provided to Cabinet for consideration and approval at that stage.

2.5 Legal Implications

- 2.5.1 Variations to tenancy terms and conditions (other than rent) must be undertaken in accordance with Sections 102 and 103 of the Housing Act 1985 ('the Act'). The Act requires that all secure tenants are provided with preliminary notice of the proposals, have a reasonable time to respond to the proposals and that any responses are considered by the Council. Actual notices of variation must then be served on each tenant at least 4 weeks before the new terms and conditions take effect.
- 2.5.2 Based on the requirements of the Act a timetable for implementing the proposed new terms and conditions has been developed. The timetable is attached (see Appendix 1).
- 2.5.3 To ensure a comprehensive consultation process takes place with all Council tenants, a comparison report has been produced (see Appendix 2) which details the proposed clauses and compares them against those in the existing Tenancy Agreement.

2.6 Equalities Impact

2.7.1 Translation of the consultation documents, including a large print version will be available on request. When the consultation process is finalised, and approval from Cabinet to implement any revisions in the Agreement is obtained, it will be translated and available on Harrow Council's web site in the main community languages.

2.8 Section 17 Crime and Disorder Act 1998 Considerations

2.8.1 The proposed new clauses deal with anti social behaviour more comprehensively than the current version which will help improve the way we currently tackle nuisance and anti social behaviour by giving Officers more leverage when dealing with tenants who are the subject of such complaints.

SECTION 3 – FURTHER INFORMATION

Appendix 1 – Timetable

Appendix 2 – Report on Comparison of Proposed changes to Tenancy Terms and Conditions

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

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