

**REPORT FOR: TENANTS' AND
LEASEHOLDERS'
CONSULTATIVE FORUM**

Date of Meeting: 21 January 2010

**Subject: INFORMATION REPORT -
Introductory and Demoted
Tenancies**

**Responsible Officer: Lynn Pennington Interim Divisional
Director Housing**

Exempt: No

Enclosures: None

Section 1 – Summary

This report sets out the recommendation that Harrow Council Adults and Housing Resident Services Directorate introduces:-

- An introductory tenancy regime and
- A demoted tenancy regime.

The Tenants and Leasehold Consultative Forum (TLCF) is requested to:

- Consider the above proposals and provide comments in relation to them.

These proposed recommendations are subject to consultation with elected members and tenants.

Introductory Tenancies

Introductory tenancies will allow the Council to ensure that new tenants behave within the remit of their tenancy agreement and that secure tenancies are given to responsible tenants who:

- look after their home;
- pay their rent on time;
- do not behave anti socially.

Failing which, the Council will be able to determine their tenancy more quickly.

Demoted Tenancies

Demoted Tenancies were introduced as part of the Government's Anti Social Behaviour Act 2003.

Under this act, a local authority can now apply to the County Court for a 'demotion order'. It is a very useful provision used to terminate a secure tenancy and create a demoted tenancy (which will have the status of a non-secure tenancy) in circumstances where the tenant or a person residing or visiting the tenant's property has engaged in or has threatened to engage in anti-social behaviour or has used the premises for unlawful purposes.

Both Introductory and Demoted tenancies will give the Council greater options to resolve tenancy breaches. This will simultaneously have a direct benefit to other members of the Harrow community.

FOR INFORMATION

Section 2 – Report

Background

Introductory Tenancies

The Housing Act 1996, part 5, allows local authorities to create Introductory Tenancies which are defined in section 124 of that Act.

However, the local authority must have 'elected' to operate the introductory tenancy regime within its boundaries in which case it will apply to all future lettings to new tenants.

Introductory tenancies may only be granted to new local authority tenants. They may not be granted to existing or secure tenants transferring or exchanging within a local authority's stock or from another local authority landlord.

Introductory tenancies may not be applied retrospectively to existing tenancies and if the local authority decides to end the operation of an introductory tenancy scheme, existing Introductory tenants become secure tenants.

Introductory Tenancies last for a 12 month probation period and will automatically become secure tenancies after 12 months, unless the Tenancy Agreement is breached during this time and action is taken by the Council to

determine it. If there is a breach of the Tenancy Agreement, the Council has the discretion to extend the Introductory Tenancy for a further 6 months period or it can commence possession proceedings.

By law, during the probationary period, introductory tenants do not have the same rights as secure tenants and have less protection from eviction than secure tenants.

Introductory tenants do not have:

- the right to buy their home;
- the right to exchange their home with another tenant;
- the right to sub-let part of the property or take in a lodger;
- the right to assign their tenancy to another person;
- the right to improve or alter their home, or to seek compensation for improvements.

It is proposed that in Harrow, all new tenants should be signed up on an Introductory Tenancy, unless they already qualify for a secure tenancy.

Most Local authorities in England and Wales start new tenants as Introductory tenants and having spoken to a number of the West London Local Authorities, most use introductory tenancies or are in the process of reviewing this area with the recommendation to introduce them.

Both Hammersmith & Fulham and Hillingdon Homes use introductory tenancies and find that approximately 5% of introductory tenants do not adhere to their tenancy within the first twelve months.

From preliminary sampling of tenancies begun within Harrow in the last twelve months, it is apparent that around 25% of new tenants have been served with notice due to failure to pay their rent and 5% are served with notice for Anti Social Behaviour. Please note that we are aware that in some of the rent arrears cases the tenant is awaiting payment of housing benefit.

If the new tenant breaches the terms of the introductory tenancy agreement, a Notice (called a Notice of Possession Proceedings – NOPP) is issued, which informs the tenant of the breach complained of as well as the Council's intention to commence possession proceedings 28 days after the service of the notice.

There is an appeal process in place for notices issued on Introductory tenancies. This allows tenants to request a review (of the Council's decision to issue the NOPP) within 14 days of 'service of notice'.

Demoted Tenancies

Demoted tenancies were introduced by the Anti Social Behaviour Act (ASB) 2003. They allow local authorities to deal more effectively with ASB. It instigates a two stage regime entitling such landlords to apply to demote an otherwise secure tenancy; and then, during this demoted period, if the anti social behaviour continues, the landlord may seek possession of the property.

For local authorities, a demotion order will end the secure tenancy and replace it with a 'demoted tenancy'. The tenant will lose a number of the rights enjoyed under secure tenancy, these lost rights are:

- the right to buy their home;
- the right to exchange their home with another tenant;
- the right to assign their tenancy to another person;
- the right to sub-let part of the property or take in a lodger;
- the right to improve or alter their home, or to seek compensation for improvements.

The demotion period will initially be for 1 year; however this may be extended if possession is sought during this time. Following the expiry of the demotion period, the demoted tenancy reverts back to the original secure tenancy.

This means that if an existing tenant is shown to have been causing Anti Social Behaviour, the Council can request the Court to make an order to demote the tenancy. If the Court grants a Demoted Tenancy, this gives the tenant a last chance to improve their behaviour.

If Anti Social Behaviour continues, and is in breach of a Demoted Tenancy, court proceedings can be taken to seek possession of the property.

There is an appeal process in place for notices issued on Demoted Tenancies. This allows tenants to request a review of their case within 14 days of receiving the notice, before proceedings for a demotion order.

Section 3 – Further Information

Additional Staffing/Resource

Introductory Tenancies

The additional work to administer the introductory tenancies will be offset by the reduction in current operational work created by tenants automatically becoming secure. Introductory Tenancies can also be dealt with far quicker than those of secure tenants.

Demoted Tenancies

There will be no change in the staffing resource required as the new procedure will be virtually the same as the procedure currently being followed by housing officers in applying for possession orders.

Equality Impact

As an Introductory tenancy regime will only apply to all new tenants, an equalities impact assessment is not necessarily required, however one will be conducted.

As a demoted tenancy regime will apply equally to both existing and new tenants, an equalities impact assessment should be carried out.

Community Safety

Both Introductory and Demoted Tenancies would allow the Council to act to deal with tenants causing ASB within the borough. This would improve the options we have to expedite effective action against perpetrators to resolve ASB more quickly and with a lasting effect.

Corporate Priorities

The introductions of introductory and demoted tenancy regimes will, to an extent, assist Resident Services in delivering:

- cleaner and safer streets;
- building stronger communities.

We will be able to do this as we will be able to take more prompt and effective action against tenancy breaches.

Legal comments

Recent case law indicated that Introductory and demoted tenancy regimes are compatible with current Human Rights Legislation.

Any proposal to commence an Introductory and/or demoted tenancy regime, will change the legal framework relating to the management of Council accommodation.

It will also represent a significant change in the Council's policy and practice. Thus prior to an introductory tenancy and/or demoted tenancy regime being introduced, the Council is required to conduct a consultation exercise with existing tenants to canvass their views on the proposed changes. This is particularly important with regards to the demoted tenancy regime which will apply to both existing and new tenants.

Section 4 – Financial Implications

There will be some upfront costs involved in implementing an introductory and/or demoted tenancy regime. These are the costs involved in:

- Conducting a consultation process with council tenants
- Publicity (local newspapers, internet, council newsletters etc)
- Producing new tenancy agreements and written operational procedures
- Staff training.

However, the costs of introducing the new types of tenancy can be contained within existing budgetary provision. There are potential efficiencies of the tenancies as a result of being able to act more swiftly in relation to legal action for non-payment of rent, which would result in increased rent collection [BVPI 66a] and a lower provision required for bad debts.

Performance Issues

BVPI 66A Will only improve the collection rates as it will allow the Council to act more efficiently to undertake legal action and court referrals.

Section 5 – Corporate Priorities

1.	Consultation	YES
2.	Corporate Priorities	YES

Name: Donna Edwards	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 9 December 2009		

Section 6 - Contact Details

Contact: Suzanne Bowes, Housing Operations Manager, 020 8420 9618