

REPORT FOR: **CABINET**

Date of Meeting:	23 June 2010
Subject:	Introductory and Demoted Tenancies
Key Decision:	Yes. This decision affects all wards of the borough, and in relation to demoting tenancies, it affects all our existing tenants across the borough.
Responsible Officer:	Lynne Pennington, Divisional Director Housing Services
Portfolio Holder:	Councillor Bob Currie, Portfolio Holder for Housing
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Appendix 1 - Minute and Report relating to report presented to Tenants' and Leaseholders' Consultative Forum on 25 February 2010

Section 1 – Summary and Recommendations

This report sets out the recommendation that Harrow Council introduces:

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

Recommendations:

Cabinet is requested to consider this report and enclosures, and to approve:

1. the introduction of an Introductory Tenancy regime for Harrow, and
2. the introduction of a Demoted Tenancy regime for Harrow

If Cabinet approves the above, then further work on this will be conducted and further reports will follow in due course to introduce the regimes.

Reason: (For recommendation)

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 granted to those who after 12 months of being an introductory tenant have demonstrated that they can be responsible tenants. If there are any breaches in the introductory 12 months, the Council will be able to determine the 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 apply to the County Court for a 'demotion order'. This 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.

Section 2 – Report

Introductory paragraph

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.

From preliminary sampling of tenancies begun within Harrow Council 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 an introductory 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 process 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.

The decision sought will help the Council meet its corporate priorities:

1. **Deliver Cleaner and Safer Streets.** By being able to more easily evict tenants (under introductory tenancies) and demote tenancies (of secure tenants), the Council will potentially be better able to deal with those tenants causing problems, making the streets safer.

The new national standards for social housing include the *Neighbourhood and Community Standard*. This standard asks the council to keep the neighbourhood and communal areas associated with the homes that they own clean and safe.

2. **Improve Support for vulnerable people.** Introducing the two regimes, is likely to increase the confidence of our vulnerable service users who may otherwise feel more intimidated to report breaches of tenancies.
3. **Build Stronger Communities.** Introducing these two regimes may encourage witnesses to collectively report those who are breaching their tenancy conditions. They will be aware that additional tools exist to evict or demote tenants who do not comply with their tenancies.

Options considered

None

Current situation

Harrow does not currently operate an introductory tenancy regime or a demoted tenancy regime, and if the two regimes are to be adopted, the current tenancy agreement and conditions will need to be changed.

Why a change is needed

Introducing these two regimes will assist Housing Management staff to take action against tenants who are not taking their tenancy obligations seriously. Our last tenant satisfaction survey highlighted concerns about the management of Anti Social Behaviour, the lack of action being taken, and the ability of staff to deal with problems. The introduction of these regimes will help increase performance in this area.

To modernise the use of our tools to effectively manage our tenancies. Most high performing councils use Introductory and Demoted tenancies.

The Tenant Services Authority has introduced national standards which include Tenancy Standards and Neighbourhood and Community Standards which will embrace the introduction of these tenancies.

Implications of the Recommendation

As far as day to day services are concerned, it is anticipated that there will be no staffing or resource implications. The same procedure will be used to incorporate these regimes and documents. As the regimes permit a review process, if this is done at officer level, there is likely to be an additional implication in relation to this but it is expected that this will be managed within existing budgets and resources.

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.

Whilst no specific budget provision exists it is anticipated that 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

The introduction of these types of tenancies could impact on the council priorities:

- **Improve support for vulnerable people.** Some vulnerable people mismanage their tenancies and are the perpetrators of ASB despite the support agencies offer them.
- **Build stronger communities.** The demotion of tenancies weaken secure tenancies and will have an impact on sustainable tenancies.

The following performance indicators could be affected:

BV66a Rent arrears collection will benefit from the introduction of introductory tenancies. With introductory tenancies the process to repossess or evict for rent arrears will be shortened therefore reducing the level of rent arrears.

BV66b Tenants with more than 7 weeks rent arrears should reduce with the introduction of introductory tenancies and there will be more effort from tenants to manage their tenancies effectively for the first 12 months.

BV66c Tenants in rent arrears with Notices of Seeking Possession (NOSP). This may increase (is current position) due to the closer monitoring of introductory tenancies and the need to take earlier action on breach of tenancy to embed the effectiveness of this tool. Notice will also have to be served prior to demoting a tenancy.

BV66d % of tenants evicted as a result of rent arrears. During the introductory tenancy if rent arrears accrue and the tenancy is breached, possession will be easier to obtain and the number of evictions could increase by the first year of the tenancy.

BV69 % of rent loss through vacant dwellings. Due to BV66c and BV66d above the number of void properties could increase due to repossessions and evictions.

The senior Housing Management team are considering changing the target of BV66. Irrespective of this proposal this target will have to be changed due to the current performance and the need to issue more NOSP's to tenants who persistently fail to pay their rent.

Any assessment from the Audit Commission or the new regulatory body, Tenant Services Authority is likely to view the introduction of this proposal as positive.

Environmental Impact

No significant environmental implications.

Risk Management Implications

None

Equalities implications

Some Equality Impact Assessment work has been done. Further work needs to be done in order to conclude this assessment.

Corporate Priorities

Please see section 2 above.

Section 3 - Statutory Officer Clearance

Name: Donna Edwards

on behalf of the
Chief Financial Officer

Date: 5 May 2010

Name: Paresh Mehta

on behalf of the
Monitoring Officer

Date: 6 May 2010

Section 4 – Performance Officer Clearance

Name: Martin Randall

on behalf of the
Divisional Director
Partnership,
Development and
Performance

Date: 5 May 2010

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker

on behalf of the
Divisional Director
(Environmental
Services)

Date: 5 May 2010

Section 6 - Contact Details and Background Papers

Contact: Karen Connell, Senior Professional, Housing Management

Tel No: 020 8416 8660 Internal: Extension 8660

Background Papers:

Information Report- Introductory and Demoted Tenancies,
presented to Tenants' and Leaseholders' Consultative Forum on
25 February 2010.

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

*(for completion by Democratic
Services staff only)*