

REPORT TO CABINET

REPORT OF: Portfolio Holder Corporate Governance & Housing

REPORT NO: TSE/0057

DATE: 4th October 2010

TITLE:	AMENDMENT TO SECURE TENANCY AGREEMENT	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Key Decision	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter, portfolio holder for Corporate Governance and Housing	
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INITIAL IMPACT ASSESSMENT:	Not at this stage	Full impact assessment Required:
Equality and Diversity		This will be completed following statutory consultation
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Current Tenancy Agreement	

1. RECOMMENDATIONS

Cabinet is requested to approve the proposed draft Tenancy Agreement as appended to this report for consultation with all the tenants of South Kesteven District Council in accordance with the statutory consultation process.

2. PURPOSE OF THE REPORT

The purpose of this report is to highlight some of the major changes proposed and to seek approval to start the process of adopting the new Tenancy Agreement by commencing the statutory consultation process with all of our tenants.

3. DETAILS OF REPORT

The Council is required to have a Tenancy Agreement setting out the obligations for both Landlord (South Kesteven District Council) and Tenants within our housing stock.

The current tenancy agreement was adopted by the Council in April 2002 and as legislation has changed and our policies and practices have changed there is now a need to rewrite the Tenancy Agreement in order to support and reflect these changes. Under the Housing Act 1985 we are required to consult with all of our tenants showing any proposed changes to the tenancy agreement and inviting feedback. Following this the proposed Tenancy Agreement and feedback will then go to Cabinet for any final amendments and approval.

The proposed draft Tenancy Agreement has been written using references from our current Tenancy Agreement and other examples of good practice from various Local Authorities and Registered Social Landlords. The document was drafted by an officer group comprising legal representation and officers representing the various landlord services that use the Tenancy Agreement as part of their day to day work.

This was discussed at a focus group (meeting 26th August) comprising of Officers, Tenants and Councillors representing the appropriate Policy Development Groups. The final draft document is attached at Appendix A.

The proposed document is written in a different format than the current Tenancy Agreement however most of the clauses are essentially the same and the headings follow the same sequence. The main additions and changes to the new Draft Tenancy Agreement are;

- **Our responsibilities** (Pg 8) – We propose removing the additional clause in our current agreement that states “We will carry out repairs which we are responsible for, such as repairing or replacing the fixtures and fittings we own.” We wish to remove this clause in order to put in place the proposed changes to our repairing obligations which were recommended as part of the feedback from the budget consultation exercise carried out last year.
- **Rents and other charges** (Pg 12) – We have included more information regarding service charges and support charges.
- **Antisocial behaviour** (Pg 15) – We have included “You will be asked to sign a Good Neighbour Agreement when you take on the tenancy”. This has also been added to the signatories on the final page of the agreement. We have been more specific in the requirements within this section adding a concise list of examples of antisocial behaviour breaches. We have also included “You must make yourself available at your home for interview if requested to do so given reasonable notice – at least 24 hours”. This clause would only be used for any serious cases of anti-social behaviour.
- **Repairs and Improvements** (Pg 18) – We have included “You must allow our employees and contractors to enter your home at reasonable times and at reasonable notice to service appliances and carry out improvement works to your property”. We have also included “You are expected to do certain repairs yourself which are listed in your tenants handbook.”
- **Health and Safety** (Pg 21) – We have included “You must not; prevent us and/or our representatives from servicing appliances in your home”. And “You must not; prevent us and/or our representatives from carrying out necessary repairs and/or improvement works to your home.” This will give us greater powers to service gas appliances and to carry out works to our properties. We have also added “you must not; let anyone you do not know into shared areas without appropriate identification”.
- **How you may end your tenancy** (Pg 26) – We have included “When you move out of your home, you must do the following; allow our employees and

contractors to enter your home at reasonable times to inspect it prior to you vacating the property.” And “Allow our employees to show prospective tenants around your home prior to you leaving.” These clauses have also been added for transfers with the comment “If you fail to comply with these conditions it may result in you not being able to transfer to another property.” These clauses have been included to try and prevent tenants leaving properties in a poor state of repair and incurring large costs that are often non-recoverable and to speed up the re-let process to increase the rental revenue.

- **Written permission** (Pg 28) – We have included “You must get our written permission before you; lay laminate flooring” and “lay ceramic tiles”. We would only withhold permission if the flooring or tiles would prevent us carrying out maintenance or improvements such as in upstairs rooms or where this may cause a noise nuisance to neighbours living beneath.
- **Data protection** (Pg 30) – we have included data protection and a disclosure of personal data clause to principally help us and utility companies to recover any outstanding debts which are the responsibility of the tenant.

The above examples of the changes are not exhaustive however they do show the substantive changes proposed to the Tenancy Agreement.

It is a legislative requirement that all tenants must be informed of the proposed changes and any feedback should be taken into account. It is therefore proposed to send a copy of the attached document to all tenants for comment. A final report will be prepared for a future Cabinet meeting detailing further changes made following that consultation process.

4. OTHER OPTIONS CONSIDERED

The only other option is to carry on with our current Tenancy agreement however whilst this is generally acceptable it is felt that the changes highlighted in this report are necessary to allow us to effectively manage our housing stock.

5. RESOURCE IMPLICATIONS

There will be initial printing and administration costs however if the proposals are accepted we will be able to instigate previously highlighted budget savings within the repairs service once the new agreement is in place. This will also provide ongoing cost savings by reducing the amount of repairs carried out by the Council.

6. RISK AND MITIGATION

N/A

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

N/A

8. CRIME AND DISORDER IMPLICATIONS

The additional and amended clauses contained in the proposed Tenancy Agreement will assist officers to deal with incidents of anti-social behaviour in a more proactive way and will support us in our obligation to reduce crime and disorder.

9. COMMENTS OF SECTION 151 OFFICER

The proposed changes to the tenancy agreement will enable the allocated resources for the repairs and maintenance of the housing stock to be maximised by having clearly defined responsibilities between landlord and tenant. It is important that once the proposed changes have been made, tenant repair obligations are clearly communicated and defined in order to avoid confusion.

10. COMMENTS OF MONITORING OFFICER

The Local Authority, as landlord, is afforded general powers of management, regulation and control over its housing stock under section 21 of the Housing Act (HA) 1985.

Section 103 of the HA 1985, specifically relates to the process required to change the terms and conditions of a secure tenancy. The process is as follows:

- i) Stage 1 – service of a Preliminary Notice which:
 - a) informs the tenants of the Council’s intention to serve a Notice of Variation
 - b) specifies the proposed variations and their effects; and
 - c) invites tenants to comment on the proposed changes within a reasonable consultation period. Please note that the period of consultation is not stipulated in the Act but it must be reasonable. The report does not stipulate a period of consultation.
- ii) Stage 2 - The council must consider the comments made by the tenant within the specified consultation period
- iii) Stage 3 - Service of a Notice of Variation – this Notice must specify the variations and the date on which it takes effect and the period between the date on which it is served and the date on which it takes effect must be at least four weeks or the rental period whichever is the longest.

The report states that a copy of the new version of the tenancy agreement will be sent to all tenants for comment. However, this of itself is not sufficient to satisfy stage 1 above and a Preliminary Notice must also be served on all tenants. There is no reason why both documents cannot be served together.

11. COMMENTS OF OTHER RELEVANT SERVICE MANAGER

N/A