

Bolsover District Council

Executive

31st January 2022

Housing Tenancy Agreement

Report of Cllr Sandra Peake, Portfolio Holder for Housing

Classification: This report is public

Report By: **Victoria Dawson – Assistant Director Housing Management and Enforcement**

Contact Officer: **Victoria Dawson – Assistant Director Housing Management and Enforcement**

PURPOSE / SUMMARY

To seek approval to commence consultation on a draft new Council Housing Tenancy Agreement.

To grant the Assistant Director of Housing Management and Enforcement delegated powers to adopt the Tenancy Agreement, in consultation with the Leader, Deputy Leader and Portfolio Holder for Housing, subject to any changes following the public consultation.

REPORT DETAILS

1 Background

- 1.1 The Council's housing tenancy agreement is the document that defines and governs the contractual relationship between landlord and tenant. It contains the rights and obligations of both parties, which reflect statutory requirements imposed upon the landlord by the Housing Act 1985 and contractual requirements imposed through the agreement itself.
- 1.2 The purpose of the tenancy agreement is to set out clearly each party's rights and responsibilities and provides the basis for either landlord or tenant to enforce non-performance of any obligation or refusal of the exercising of any right.
- 1.3 Apart from setting out clearly statutory rights and responsibilities, the tenancy agreement also has to fulfil other conditions, notably the requirements of the Unfair Contract Terms Act 1977.
- 1.4 The Council's existing tenancy agreement is more than a decade old and it is considered good practice for landlords to revise their tenancy agreements on a regular basis. Changes in legislation, regulation and accepted good practice are also reasons why tenancy agreements should be revised.

2. Details of Proposal or Information

- 2.1 The existing tenancy agreement is attached at Appendix 1 and the draft new tenancy agreement is attached at Appendix 2. The changes proposed are summarised below and in the attached summary document at Appendix 3.
- 2.2 The existing tenancy agreement is split into 3 sections, The Terms, the Tenant's rights and obligations and the Landlord's obligations and rights.
- 2.3 The new draft tenancy agreement is divided into **nine** very clear and distinct sections focusing on landlord's and tenant's rights and obligations, with a welcome page.
- Section 1: Definitions - an explanation of words used in the agreement
Section 2: Your Tenancy – captures commencement date and all applicable charges as well as tenants and household members, and property details.
Section 3: Paying your rent
Section 4: Using your property
Section 5: Repairs and Maintenance
Section 6: Nuisance and Anti-Social Behaviour
Section 7: Moving home or Ending the tenancy;
Section 8: Notices
Section 9: Signature and declaration
- 2.4 The overall structure and format changes are designed to make the agreement easier for the tenant to read and find key information. Within each section every paragraph is individually numbered so as to provide an easy method of referencing and cross-referencing.
- 2.5 The new draft agreement also reflects current legislation and removes some points within the existing agreement that are either now out of date or inappropriate.
- 2.6 The changes fall into two broad categories; either additional clauses that do not have any equivalent in the existing agreement or existing clauses re-written, clarified, expanded upon and/or strengthened to support enforcement action.
- 2.7 Section 103 of the Housing Act 1985, sets out very clear rules that have to be complied with when Local Authority landlords wish to vary the terms of tenancy for existing tenants. The Council must serve a preliminary notice on the tenant:
- informing the tenant of the Council's intention to serve a notice of variation;
 - specifying the proposed variations and their effect; and
 - ask the tenant to comment on the proposed variation within such time, specified in the notice, as we consider reasonable;
- 2.8 The Council must then consider any comments made by the tenant within the specified time. Following this, The Council must then serve a notice of variation on the tenant which must contain the actual variations being proposed, incorporating additional changes (if any) brought about by comments received through the preliminary notice process and the date on which the variation will take effect, that date being no less than four weeks of the date of the notice;

- 2.9 The Council must include any information that it considers necessary to inform the tenant of the nature and effect of the variation.
- 2.10 A suggested timetable is shown below which illustrates the actions required.

Action	Date
Preliminary notice with draft tenancy agreement to be served for consultation	End February 2022
Preliminary notice period ends	29 April 2022
Consideration of comments	Completed by 20 May 2022;
New agreement finalised	Completed by 27 th May 2022
New agreement printed	Completed by 24 th June 2022
New agreement comes into force	27 th June 2022

- 2.11 For clarity, anyone who becomes a tenant of the Council after the commencement of formal consultation will be required to sign the existing tenancy but will also be served with the necessary notice and draft tenancy so that with effect from 27th June all tenants will be subject to the new agreement.

3 Reasons for Recommendation

- 3.1 The new tenancy agreement sets out the required information more clearly and logically for tenants. It protects the tenant's right to quiet enjoyment of their homes.
- 3.2 It addresses deficiencies in the existing agreement as a result of a number of legislative changes and updates both Council rights and obligations as a landlord, as well as tenants' rights.
- 3.3 This agreement strengthens the Council's ability to enforce conditions of tenancy against those who wilfully and/or persistently fail to abide by them.

4 Alternative Options and Reasons for Rejection

- 4.1 To do nothing and to continue to operate using the existing, outdated tenancy agreement would mean that the Council will not have a modern, easily understandable, fit for purpose, tenancy agreement in place.

RECOMMENDATIONS

1. To approve the commencement of public consultation on the new Council Housing Tenancy Agreement at Appendix 2
2. To grant the Assistant Director of Housing Management and Enforcement delegated powers to adopt the Tenancy Agreement, in consultation with the Leader, Deputy Leader and Portfolio Holder for Housing, subject to any changes following the public consultation.

Approved by the Portfolio Holder - Cllr Peake, Executive Member for Housing

IMPLICATIONS

Finance and Risk: Yes No

Details:

All costs incurred will be met from within existing HRA Budgets.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

As set out in the report.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

There are no staffing implications contained within this report

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	No
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details:

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.
Customer Services – increasing customer satisfaction with our services, providing good quality housing where people chose to live

DOCUMENT INFORMATION

Appendix No	Title
1	Current Tenancy Agreement
2	Draft New Tenancy Agreement
3	Summary of Change document
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	