

Lead Officer: Head of Strategic Programmes and Projects-CLS

Wards: All

Agenda Item: 7

Subject: - REVIEW OF THE CONDITIONS OF TENANCY

1. SUMMARY

- 1.1 This report advises residents of the proposals to introduce a number of changes to the Conditions of Tenancy for existing lifetime secure tenants following consultation with resident representatives at review group meetings held in April 2013.

2. RECOMMENDATIONS

- 2.1 The Panel is asked to note the proposed amendments to the Conditions of Tenancy, and the proposed timetable for their introduction.

3. BACKGROUND

- 3.1 In May 2007, a new set of Conditions of Tenancy was introduced following consultation with a group of resident representatives and a report to the Tenants and Leaseholders Panel. There were a number of important changes made at this time to ensure that tenants were aware of the council's responsibilities to them and their responsibilities to the council.
- 3.2 A number of clauses were changed to set out these responsibilities in more detail including the clause relating to anti social behavior, a new schedule giving examples of anti social behaviour, gaining access for repairs, Improvements and parking to name but a few. Improvements were also made in the use of plain English, the general presentation of the document and so far as possible the document was checked to ensure compliance with the Office of Fair Trading (OFT) guidance on unfair terms in tenancy agreements.
- 3.3 Since these changes were introduced the Localism Act 2011, has introduced a requirement for the council to have a housing tenancy strategy. As part of the strategy the council developed a tenancy policy and has been granting 5 year fixed term (in certain circumstances 2 fixed term) flexible tenancies to all new tenants from April 2013.

- 3.4 The need to prepare new fixed term tenancy agreements has provided an opportunity to review the Conditions of Tenancy for existing secure lifetime tenants as well as making changes to the new fixed term agreements.
- 3.5 The Conditions of Tenancy have been updated to strengthen the council's position on taking positive enforcement action in appropriate cases. A summary of the proposed changes including a tenant's questionnaire is set out in the attachment to this report.

4. CONSULTATION

- 4.1 A group of tenants was drawn from chairs of the Community Housing Panels from across the borough, Housing Sounding Board members, and officers. Two meetings of the group took place in April 2013, when the group reviewed the proposed changes to update the Conditions of Tenancy.

5. KEY AMENDMENTS WITHIN THE CONDITIONS OF TENANCY

- 5.1 We have also provided information about the agreement and Tenancy rights including the changes affecting the succession rules for tenancies granted after 2nd April 2013
- 5.2 The proposed changes have taken in consideration changes in the ways the Council undertakes its repairing and redecoration responsibilities, the changed arrangements for managing retirement (sheltered) housing, changes in anti social behaviour, proactive action regarding data protection and fraud prevention and increased action to control parking, misuse of balconies, dogs and dog fouling on housing estates.
- 5.3 Other changes as a result of the review group's work included:
- Adding the maintenance of carbon monoxide detectors as a landlord repairing responsibility
 - Adding restrictions on the parking of mopeds and motor bikes in entrance lobbies and walkways
 - Upgrading the code of guidance for balconies to include the hanging of wet washing, duvets and rugs over balcony rails or walls.

A full set of the revised Conditions of Tenancy together with a summary of the changes is attached to this report. (**Appendix**)

6 FURTHER ACTION

- 6.1 Before the new Conditions of Tenancy can be introduced it will be necessary to issue all secure tenants with a preliminary Notice of Variation explaining proposed changes and their effect. The Council is then required to consider any comments before serving a Notice of Variation to introduce the changes. Tenants will be able to make comments on a questionnaire form or they can complete the questionnaire on line.

- 6.2 It is proposed that a preliminary Notice of Variation is issued to all secure tenants by 30 August 2013, and the Managing Director of Croydon Landlord Services consults with the review group when considering any comments received from tenants within the appropriate response date.
- 6.3 All tenants will be served with a Notice of Variation during October 2013, to bring in the new Conditions of Tenancy from the beginning of December 2013.

7. COMMENTS OF THE SOLICITOR TO THE COUNCIL

- 7.1 The Solicitor to the Council comments that the Council needs to ensure that the terms of its tenancy agreement comply with the provisions of the Unfair Terms in Consumer Contracts Regulations 1999 (SI 1999/2028) and to follow the Guidance on Unfair Terms in Tenancy Agreements issued by the OFT. These regulations require that terms satisfy a reasonableness test and furthermore that contracts are phrased, in so far as is possible, in plain English. Where a term of the contract is found to be unfair, the term is not binding on the tenant.
- 7.2 The Council has a statutory obligation to issue secure tenants with Notices of Variation to notify them of the ways in which their tenancy will be changed and to effect changes in the terms of the Conditions of Tenancy.

8. FINANCIAL CONSIDERATIONS

- 8.1 There will be some expense in the production of a new Conditions of Tenancy booklet as well as the necessity to consult with all Council tenants by writing to them. This expense can be contained within the Housing Revenue Account.

9. EQUALITIES CONSIDERATIONS

- 9.1 The Conditions of Tenancy enable the Council to address complaints of racial and other forms of harassment as well as anti-social behaviour. Perpetrators of such behaviour will often target individuals who are disadvantaged. Any amendments to the Conditions of Tenancy that enable the Council to respond but additionally be more proactive in these areas will benefit all Croydon tenants.

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Background Documents: Office of Fair Trading guidance on unfair terms in tenancy agreements.