

Decision Session – Executive Member for Housing 15 February 2016 and Safer Neighbourhoods

Report of the Assistant Director, Housing and Community Safety.

Proposed Changes to the City of York Housing Tenancy Agreement – Results of Consultation

Summary

1. This report sets out the results of the consultation with tenants on the proposed changes to the City of York Council Housing Tenancy Agreement. The report asks the Executive Member to accept the changes in the recommendation.

Recommendations

2. The Executive Member is asked to agree:
 - **Option 1** – That all of the proposed changes to the housing tenancy agreement, as set out below, are agreed. The major changes have been set out individually. This changes the tenancy in line with previously agreed amendments for consultation and includes additional amendments that change the rent cycle to 52 weeks, introduces flexible tenancy start dates and requires tenants to have specific permission to keep pets.

Reason: To better enable the council to enforce tenancy conditions for the benefit of all tenants, enable customers to budget more effectively, make sure those most in need get council homes that become vacant and to help promote animal welfare / responsible pet ownership.

Background

3. On 16th December 2015 the Executive Member received a report detailing proposed changes to the tenancy agreement (**Annex A**). The request was for approval to consult on these changes, as required by law, when substantially changing a tenancy agreement or policy. If the changes are agreed, tenants will require four weeks notice of the changes and it is hoped that they can be implemented from the start of

the new financial year 2016 / 2017. Tenants will receive a copy of the new terms and supplementary information on the changes as sent out with the consultation materials. A full policy on pets will also be developed using materials from animal welfare organisations and other housing organisations.

Proposed Changes

4. The proposed changes to the tenancy agreement are:

Consultation

5. Consultation has taken place with housing staff and legal services over the last year and formally with all tenants for a period of five weeks between 4th January 2016 and 5th February 2016.

6. The questions asked as part of the consultation were:

- a. Do you think that the tenancy agreement should be changed to assist City of York Council to enforce it?
- b. Do you feel that tenants should ask permission to have a pet?
- c. Currently City of York council work your yearly rent out over 48 weeks. To help customers budget more easily we want to spread your rent out over 52 weeks, this would not mean an increase in rent. Do you agree that City of council should remove rent free weeks?
- d. City of York council needs to let properties as quickly as possible, so we can ensure people are housed promptly. We are looking to start tenancies on any day of the week and not just a Monday. Do you think that we should do this?
- e. City of York council need to ensure that they make sure properties go to those most in need. In order to do this we are looking at limiting those who can succeed to a tenancy to husband / wife / civil partner. Do you think it is fair to limit succession to wife/husband/ civil partner?
- f. If City of York Council becomes aware that the tenant has not been living at a property for more than a month and not been told why, should they take legal action?
- g. Are there any other proposed changes to the tenancy agreement that you want to comment on?

h. Would you like us to contact you?

7. The consultation process consisted of:

- A mailing to all tenants including:
 - A covering letter (**Annex B**)
 - A summary of the changes to the tenancy agreement (**Annex C**)
 - Questionnaire about the changes (**Annex D**)
 - Details of changes to the succession rules (**Annex E**)
 - Frequently asked questions about the changes to succession rules(**Annex F**) and
 - Freepost envelope for return of the questionnaire;
- Circulation of the above documents to all councillors;
- An online version of the questionnaire on the City of York Council website was available to customers;
- Three community based open sessions held in Tang Hall Community Centre, Acomb, Front Street and West Offices in January as detailed in the letter;
- Two focus groups organised for 25th & 28th January 2016;
- All sheltered housing schemes had organised sessions by Scheme Managers throughout the consultation period, giving residents, carers and relatives the opportunity to ask questions and get help filling in the returns.
- An article about the tenancy changes appeared in Streets Ahead, which goes to all council tenants and leaseholders;
- The housing landlord service manager also met with the Opposition Spokes Person for Housing;
- Email representations from interested parties working in various animal welfare capacities were also received. The submissions received are detailed at **Annex G**.

8. Animal welfare professionals were also asked to comment on the proposed changes around requesting permission to keep pets and the development of a comprehensive pet policy. It was clear from the animal welfare professions that there was favour for:

- Ensuring that the benefits of pet ownership were recognised;
- Banning the breeding of animals in council tenancies;
- Encouraging 'identity chipping' (compulsory for dogs from April 2016 nationally), neutering and spaying.

9. When considering the above, it is important to consider the councils ability to enforce any changes and the appropriateness of any clauses considering the primary function of the tenancy agreement.
10. In total 886 tenants responded to the consultation which is approximately 11.5% of all tenants.
11. The collated results of the questionnaire returns are detailed at **Annex H**, the following table summarises the results.

	Yes		No Opinion		No		Combined in favour / no opinion
	Number	%	Number	%	Number	%	
Changes to facilitate greater enforcement	509	57.5	247	28	130	14.5	85.5%
Permission to have pets	552	62.5	89	10	245	27.5	72.5%
Changing for 48 to 52 rent weeks	271	30.5	214	24.5	401	45	55%
Introduction of flexible tenancy start	708	80	141	16	37	4	96%
Changes to succession rules	491	55.5	92	10.5	302	34	66%
Enforcement for Non occupation	586	66	137	15.5	163	18.5	81.5%
Do you want us to contact you	127	14.5	6	0.5	745	85	15%

12. In all cases there was a simple majority of those who supported the changes or had no opinion on the changes happening.
13. As part of the questionnaire we also asked about any other changes that tenants felt should be made to their tenancy agreement. There were

many varied comments on the questionnaire, the main themes from the comments are:

- Concern about drug related activity on 'estates'.
- Neglect of property, gardens and communal areas by tenants and the need for more inspection, attention and enforcement on this.
- The need for more external storage space for flats
- Concern that the proposed succession rules are too limited.
- Concern that properties seemingly not occupied would be taken back when there was a valid reason e.g. tenant in hospital long term.
- Dissatisfaction with the quality of repairs.
- Concern that people would be denied pets but also that larger pets aren't suitable in flats.

Options

14. The options for consideration are:

- a) **Option 1**- Agree to all proposed changes to the tenancy agreement and removal of the rent free weeks as well as the development of a comprehensive pets policy and extra information for customers as detailed in the Analysis section.
- b) **Option 2** - Agree to none of the proposed changes to the tenancy agreement and rent free weeks
- c) **Option 3** - Agree to a selection of the proposed changes following the results of the consultation to include the development of a comprehensive pet's policy and information for customers as appropriate.
 - Requirement to have permission for all pets
 - Removal of the 'rent free weeks'
 - Introduction of flexible tenancy start dates
 - Tightening the succession rules
 - Taking action to recover properties not occupied for any notified reason
 - Amendments to make rules clearer and enable more effective enforcement.

15. The Executive Member is recommended to agree Option 1

Analysis

16. The following is a breakdown of the analysis by proposed change.

Pets

17. It is proposed that the tenancy agreement be amended to include the requirement for gaining permission to have pets in council tenancies. Retrospective will be given with the presumption of granting the request unless there has been a history of nuisance caused as a result of a tenant's failure to effectively control their pet.
18. In addition, a comprehensive pets policy will be developed as well as information to be provided when permission to have a pet or pets is granted. Support for micro-chipping of cats, rabbits and other appropriate animals could be included in this as well as recommendations that tenants consider neutering / spaying and use of obedience classes for their animals. This will help promote animal welfare generally.
19. In considering what additional clauses are formally include in the tenancy agreement, we need to consider the appropriateness of those clauses against the primary purpose of the agreement, managing the tenancy. There are obvious issues with obtaining evidence around chipping and neutering for housing staff. It is felt that using the tenancy agreement as a tool for enforcing this is inappropriate and it would therefore be very difficult to meaningfully enforce these through the tenancy agreement. It is therefore not proposed to include the requirement for micro-chipping and neutering / spaying as a formal tenancy clause, however we will include guidance / best practice on this as part of the pets policy.
20. Given the consultation it is proposed to amend the tenancy agreement clauses to include that breeding animals either as a business or for commercial gain is not allowed under any circumstances.

Advantages

21. Adopting the requirement for permission to have pets will help enforce the tenancy conditions and clamp down on inconsiderate pet owners. This should improve the quality of life for other residents whilst not unduly affecting the ability of customers to have pets. The policy will help promote animal welfare in a more formal way.

Disadvantages

22. As many tenants already have pets without permission a programme to enable these tenants to obtain permission will need to be developed.

Changes to rent weeks - Removal of rent free weeks

23. Annual rent is currently worked out and then divided by 48 rent weeks, meaning that if a tenant is up to date with their rent they in essence have four 'rent free week'. In reality these are not rent free weeks as the amount paid each week $\frac{1}{48}$ of the annual rent. It is proposed to change the way the weekly rent is calculated to be $\frac{1}{52}$ of the annual rent, meaning that rent will be paid every week. Customers annual rental charge will be the same.

Advantages

24. Customers, particularly those claiming universal credit, will find it much easier to budget as Universal Credit (UC) takes no account of any rent free weeks. Exact numbers of likely claimants are not known at present, however around 60% of tenants currently claim Housing Benefit which will be included in UC for many claimants. Monthly payers and Direct Debit payers will also avoid falling in to technical arrears.
25. Customers can pay extra each week to put themselves in credit and take 'rent free weeks' whenever they want to use up the credit. Staff can advise them on adjusted amounts to pay.
26. There will also be a number of advantages for the business administratively, cutting down on staff time and expenses related to the rent free weeks.

Disadvantages

27. Some customer like the rent free weeks to help them save for Christmas for example.

Introduction of flexible tenancy start dates:

28. Currently tenancies always start on a Monday. It is proposed to amend the agreement to allow tenancies to start on any day of the week.

Advantages

29. This will mean that tenants can get the keys and move in straight away when offered a tenancy.
30. It also means that the council can reduce void periods (lost income) and increase the rental income it collects as a result of starting tenancies earlier.

Disadvantages

31. Changes will need to be made to the IT system, however this can be accommodated within the existing system. Customers will have to pay rent for a few more days than if their tenancy start date was the following Monday.

Changes to succession rights

32. Currently the tenancy agreement allows for succession rights to wider members of the family should they have been living with the tenant for 12 months prior to the tenants death. Given the needs to make sure that we make effective use of our limited housing stock it is proposed to limit succession to wife/husband/ civil partner.

Advantages

33. City of York Council faces a dwindling stock. Tightening the succession rules will help it accommodate those customers in the greatest housing need. Customers will be given appropriate housing using other policies when this is appropriate.

Disadvantages

34. Some family members of deceased tenants may need to move to smaller properties or may only qualify for advice and assistance in obtaining alternative housing. Where someone does not have the right to succession support will be provided through the councils Housing Options Service.

Commencement of enforcement action for non occupation where someone has been absent from their home for more than a month.

35. The current tenancy agreement states that a tenant must use the property as their sole or principle home. It also states that the tenant should inform the council where they intend to be away from their home for more than 4 weeks.

36. Whilst abandoned properties are not a frequent occurrence within the city, they do occur. Taking action to prove that the property is abandoned can at times take a significant length of time, having a specific clause in the tenancy agreement that makes it clear that we will start enforcement action for non occupation will speed up enforcement.

Advantages

37. This should help City of York Council send a clear message that properties will be repossessed when tenants are not living in them. It should also encourage those with a valid reason for absence to notify their housing estate manager of the reason for the absence.

Disadvantages

38. Customers have expressed fear that homes will be repossessed when there is a valid reason to be away. This will not happen as extensive checks are undertaken before any action is taken.

Council Plan

39. The proposed changes will contribute to the council plan by supporting a focus on front line services, ensuring the city centre, villages and neighbourhoods are clean and safe environments.

Implications

40. The direct implication arising from this report are:
- **Financial** - cost of consultation and issuing new tenancy agreements are contained within existing budgets
 - **Human Resources (HR)** - none
 - **Equalities** – the effect of these changes will be neutral or where there is detriment, these will be picked up through the application of other policies and statutory duties. A community impact assessment has been completed
 - **Legal** – the changes have been advised and agreed with legal services
 - **Crime and Disorder** – tightening the wording of the tenancy agreement will help City of York Council enforce relevant clauses when needed for anti-social or criminal behaviour

- **Information Technology (IT)** – changes to the IT systems will be funded from existing budgets
- **Property** - none
- **Other** – changes will help promote animal welfare in council homes

Risk Management

41. Changes to tenancy agreements, in particular the changes to succession rights, could lead to challenges by extended family members claiming succession and ultimately legal action may be required to obtain possession.
42. A key principal for the proposed changes is to provide clarity to areas of the current agreement where difficulties have historically arisen. Providing this clarity has the potential to reduce lengthy litigation cases and resultant costs due to lack of clarity of terms.
43. Making it easier for tenants on UC to budget can help reduce the risk of lost income.

Contact Details

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Report
Approved

Date 8th Feb 16

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Annexes

Annex A – Report to 16 December Decision Session of the Executive Member for Homes and Safer Communities.

Annex B - Letter to tenants

Annex C - Summary of proposed changes to the tenancy agreement
Annex D – Survey 2016
Annex E - Proposed changes to succession rules
Annex F – FAQ's
Annex G – Summary of submissions around pet clauses
Annex G1 - Examples of pet clauses in public sector tenancy agreements.
Annex H – Tenancy Agreement Review

Abbreviations

IT - Information Technology

UC – Universal Credit