

**To the Chair and Members of the
CABINET**

INTRODUCTION OF 2017 TENANCY AGREEMENT

Relevant Cabinet Member(s)	Wards Affected	Key Decision
All	All	Yes

EXECUTIVE SUMMARY

1. The existing Tenancy Agreement was introduced in 2010 and has not been subject to change since its introduction. Over the last 6 years the whole operating environment has changed, new legislation has been introduced, housing practice has changed and therefore as a business we need to change how we operate to respond to these changes and to ensure our communities remain vibrant and safe places.
2. The Tenancy Agreement is an important contract between the landlord and tenant and needs to clearly specify the obligations of both parties, therefore the clauses must be easy to understand, reasonable support the aims of the business and be legally enforceable.

RECOMMENDATIONS

3. That Members consider and endorse the proposed changes to the Tenancy Agreement identified in Appendix A. That Members note the consultation timetable outlined in Appendix B.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. St Leger Homes of Doncaster manage approximately 20,400 homes on behalf of the Council. It works in partnership with the Council, Police and other partners to ensure Doncaster is a safe place to live and visit. The introduction of a new Tenancy Agreement would strengthen the contractual agreement between the Council and its tenants and contribute to the efficient and effective management of Doncaster's Council housing improving the quality of life for tenants and the community as a whole.

BACKGROUND

5. The existing Tenancy Agreement was introduced in 2010 and the purpose of the review is to identify and introduce changes required to bring it up to date.
6. The Introduction of a new Tenancy Agreement has to follow a 2 stage legal process. The first stage involves writing to all tenants with the proposed changes and requesting comments within a specified period of time, this is called the Preliminary Notice. The second stage involves writing to all tenants, giving a minimum of 4 weeks` notice of the introduction of the changes; this is called the Notice of Variation.

OPTIONS CONSIDERED

7. Two options have been considered. Firstly to introduce the proposed agreement and secondly to continue using the existing agreement. The first option enables the company to effectively respond to changes in legislation, emerging needs and modern ways of working. The second option would result in tenants not having a contractual agreement that concisely specifies the obligations of the landlord and tenant, this could limit SLHD's ability to take action against tenants who breach this agreement; this would be detrimental to communities.

REASONS FOR RECOMMENDED OPTION

8. The existing Tenancy Agreement was last reviewed in 2010 and a number of changes are required to bring it up to date which is the purpose of the review.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	All people in Doncaster benefit from a thriving and resilient economy. <ul style="list-style-type: none">• <i>Mayoral Priority: Creating Jobs and Housing</i>• <i>Mayoral Priority: Be a strong voice for our veterans</i>• <i>Mayoral Priority: Protecting Doncaster's vital services</i>	None
	People live safe, healthy, active and independent lives. <ul style="list-style-type: none">• <i>Mayoral Priority: Safeguarding our Communities</i>• <i>Mayoral Priority: Bringing down the cost of living</i>	The proposed Tenancy Agreement contains up to date clauses on the action that can be taken against tenants responsible for anti-social behaviour against vulnerable members of our community
	People in Doncaster benefit from a high quality built and natural	

environment.	<ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	See implication of previous outcome
All families thrive.	<ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	None
Council services are modern and value for money.		None
Working with our partners we will provide strong leadership and governance.		A modern and effective tenancy agreement enhances our role in the partnership arrangements and demonstrates both strong leadership and governance

RISKS AND ASSUMPTIONS

9. The introduction of a new Tenancy Agreement has to follow a specific legal process, otherwise the agreement is invalid.
10. The new Tenancy Agreement needs to ensure that the landlord and tenant obligations are clear, reasonable and easy to understand, otherwise difficulties can arise when St Leger Homes of Doncaster takes enforcement action against a tenant who is in breach of the agreement. The impact can be expensive legal proceedings.
11. It is also an important document in supporting tenants to understand their obligations, but also what they can expect from St Leger Homes. The understanding of rights and obligations on both sides is critical for effective tenant relationships.
12. Other risks include challenges under the human rights or the Equality Act legislation. The Council's legal services have helped St Leger Homes of Doncaster throughout the review and an Equality Impact Assessment has been undertaken; therefore the level of risk has been greatly reduced.

LEGAL IMPLICATIONS

13. Under S102 Housing Act 1985 the Council may only unilaterally vary the terms of the secure tenancies it has granted in accordance with the procedure set out S103 of the same act.
14. The procedure requires that the Council serve a preliminary notice on any tenant whose tenancy is to be varied by the proposed changes. The preliminary notice must give the tenant the opportunity to make representations on the proposed changes and the Council is required to

consider any representations made

15. Once representation have been taken into account the Council then serves a Notice of Variation which gives not less than four weeks' notice of the date the variation takes effect.
16. If the introduction of a new agreement does not follow the correct legal process it will be invalid and the Council would be required to repeat the process during which time the tenants would continue to occupy the premises under the existing tenancy terms.
17. The Tenancy Agreement is a contractual agreement between the Council and its tenants, therefore it is important that the terms are clear, and legally enforceable, legal advice has previously been taken on the drafting the new tenancy terms to ensure this is the case.

FINANCIAL IMPLICATIONS

18. The cost of sending the Preliminary Notice and Notice of Variation by first class post will be approximately £36,000. There will also be a printing cost, however the exact figure is unknown at the moment. Other cheaper options are being explored.

HUMAN RESOURCES IMPLICATIONS

19. There will be no human resource implications.

TECHNOLOGY IMPLICATIONS

20. Minor amendments will be required to the IT systems and procedures used by St Leger Homes of Doncaster.

EQUALITY IMPLICATIONS

21. Any risks associated with equality will be minimised by the use of the Equality Impact Assessment and consultation with DMBC Legal Services. The Equality Impact Assessment was completed in June 2016 and has been kept up to date throughout the process.

CONSULTATION

22. Consultation is an essential element to the introduction of a new Tenancy Agreement. The proposed amendments and additions to the existing agreement identified in Appendix A are based on the consultation with all departments within St Leger Homes of Doncaster, DMBC Legal Services, DMBC Community Safety and tenants.
23. Once the final draft of the Tenancy Agreement has been agreed and approved, the Preliminary Notice will go out to every tenant, identifying the changes and ask for comments within a set period of time.
24. The Executive Management Team of St Leger Homes of Doncaster will be asked to consider the comments to see if any changes are required to the proposed agreement. The final stage is the service of the Notice of Variation

informing tenants of the date the new agreement comes into effect; this will be a minimum of 4 weeks.

BACKGROUND PAPERS

None

REPORT AUTHOR & CONTRIBUTORS

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