

Meeting of the Council - 17th October 2005

Tenancy Conditions

Report of the Cabinet

Purpose of Report

1. To consider the proposals of the Cabinet regarding revised Conditions of Tenancy, as set out in Appendix A to this report.

Background

2. The tenancy agreement is a legal contract. It describes the rights and responsibilities of Dudley Metropolitan Borough Council (the Landlord) and the tenant.
3. There are two main types of tenancy agreement. A person who has been a tenant for at least 12 months is a secure tenant. A tenant of less than 12 months is usually an introductory tenant. Introductory tenants have fewer rights than secure tenants but as long as there are no problems during the first 12 months of the tenancy, the tenant automatically becomes secure.
4. Introductory Tenant
An introductory tenancy lasts for a trial period of a year and in that time it is intended that the tenant demonstrates that they are responsible enough to hold a longer tenancy (secure). If the rules of the agreement are broken repossession action can be easier and quicker than in the case of a secure tenant. If court proceedings for possession are commenced in respect of such a tenancy within the one year trial period, the tenancy stays as an introductory tenancy until the proceedings are determined.
5. Secure Tenant
Being a secure tenant means that unless there is a reason to take legal action, the tenant will retain their security of tenure and associated rights.
6. The current Tenancy Conditions were produced in 1997. The style of the document was intended to incorporate both the legal conditions and general guidance. The existing Conditions needed to be revised to incorporate legislative and statutory guidance. The exercise gave officers the opportunity to completely rewrite and format the Conditions. It is now a contractual document and it is intended that the guidance element will be included in a separate handbook.
7. Accepting that the Court has the final sanction in respect of repossession action, the Conditions have been strengthened. An example would be 'Community

Responsibilities' (Section 4 of Appendix A) which makes clear what is considered to be unacceptable behaviour and for the first time includes domestic violence as required by government.

8. Dudley Council prides itself in its consultation and the Housing Act 1985 is also prescriptive on how the terms of a secure tenancy can be varied. The following illustrates the level of consultation undertaken in respect of the new proposed tenancy conditions, which also satisfies the statutory requirement on variation.
 - a) The draft document was placed on the Council's consultation database in accordance with Corporate Procedure. Agencies were written to, to alert them to the database and offering to issue hard copies of the document if required.
 - b) Advice was sought in respect of unfair contract conditions as enforceable by Trading Standards.
 - c) Dudley Federation of Tenants and Residents Association (DFTRA) were consulted on the draft document.
 - d) The section on Community Responsibilities was discussed at the Select Committee on Community Safety – Housing Working Party.
 - e) Draft Conditions of Tenancy were included in the Spring 2005 edition of Home Affairs, a publication that is delivered to all tenants across the Borough. A publicity campaign was launched in Housing offices and the document was promoted on the Housing website. As a consequence of this consultation we had 32 individual responses and a collective response from the High Rise Forum.
 - f) Consultation was also undertaken with existing Introductory Tenants who were written to individually.
9. On completion of the consultation process, officers from Housing and the Directorate of Law and Property were able to finalise the document which is attached as Appendix A.
10. The timetable for introduction of the Tenancy Conditions, subject to approval by the Council, is 1st January 2006 having served the required statutory notice. This will coincide with the launch of the Tenants Handbook which is intended to complement and expand on the conditions themselves.
11. Housing officers in the past have been criticised for not enforcing tenancy conditions. It is intended to provide enforcement training to all appropriate staff prior to the introduction of the revised tenancy conditions.
12. On consideration of the above, the Cabinet at its meeting held on 21st September, 2005, resolved to recommend the Council to approve the recommendations in paragraph 16 below.

Finance

- 13. Budgetary provision has been made within existing budgets to cover the consultation process and the printing and distribution of the revised Tenancy Conditions.

Law

- 14. Section 103 of the Housing Act 1985 establishes the legal procedure to vary the terms of a secure tenancy. Tenancy conditions form the contract between the tenant and landlord and are subject to this legislation.

Equality Impact

- 15. Tenancy conditions establish the rights and responsibilities of both the landlord and the tenant. The intention is to establish rules which if broken can provide the basis for action to be taken against the tenant.

Recommendation

- 16. That the revised Tenancy Conditions, as set out in Appendix A attached, be approved and come into force on 1st January, 2006.

David Caunt

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Leader of the Council