

**Minutes of the Meeting of the Tenant Services Management Board held on 14 November 2016 at 6pm in The John Meikle Room, The Deane House, Belvedere Road, Taunton.**

**Present:** Mr R Balman (Chairman)  
Mrs J Bunn, Mr D Galpin, Mrs J Hegarty, Mr I Hussey, and Councillor Booth and Bowrah.

**Officers:** Paul Hadley (Lettings Manager), Stephen Boland (Housing Services Lead), Jan Errington (Interim Business Support Lead and Project Manager), Simon Lewis (Assistant Director – Housing and Community Development), Martin Price (Tenant Empowerment Manager), and Tracey Meadows (Democratic Services Officer).

(The meeting commenced at 6.00pm)

**1. Apologies**

Apologies were received from Mr K Hellier

**2. Minutes**

The Minutes of the meeting of the Tenant Services Management Board held on 24 October 2016 were taken as read and were signed.

**3. Public Question Time**

No questions received for Public Question Time.

**4. Declarations of Interests**

Mr R Balman, Mrs J Bunn, Mr D Galpin, Mrs J Hegarty, Mr I Hussey, declared personal interests as Taunton Deane Borough Council Housing Tenants.

**5. Introductory Tenancies**

The Lettings Manager gave a verbal update on Introductory Tenancies (IT) stated that the legislation empowering Local Authorities to use introductory tenancies was contained within Part V of the Housing Act 1996 s124 to s143.

**The use of IT's was to provide;**

- Reduced form of security of tenure;
- Incentive for tenants to conduct their tenancy in a satisfactory manner;
- Landlord can monitor for the first year of a tenancy;
- Seek possession through a more simplified legal route;
- Extended IT for a period of six months;
- Tenancy sustainment;
- Eviction pursued as a last resort;

New tenants to TDBC would be granted IT from TBC 2016. Exceptions to this are where the tenant, or in the case of joint tenants one of them is one of the following;

- An existing secure TDBC tenant(s) transferring or exchanging to another TDBC tenancy;
- An existing secure, assured or fixed term tenant(s) of another local authority transferring or exchanging to a TDBC tenancy;
- An existing secure tenant(s) where there was a change of tenancy from joint to sole or sole to joint;
- Someone succeeding to a previously secure tenancy, or;
- A new sheltered housing tenant;

**Conditions of the IT** – an IT An IT tenant(s) will not have the same rights as a tenant(s) with a secure tenancy until the end of the first year or any extension period has been successfully completed. An introductory tenant(s) will not be able to:

- Exchange;
- Buy their property;
- Make alterations and improvements;
- Take in lodgers;
- Sublet their home.

There is a right to succession on the tenant's death during the period of an introductory tenancy.

An introductory tenancy can be assigned by a court order or by assignment to a person who would have been entitled to succeed.

## **Officer Responsibilities**

### **Estates Assistants**

- Sign ups;
- Administer and coordinate arrangements for reviews;
- Action tenancy conversion to secure as directed by ACM;

### **Lettings Assistants**

- Administer and coordinate arrangements for reviews (ASB) ;

### **Estates Officers**

- Manage IT's;
- Conduct 6 week visit (NTV);
- Conduct additional visits as necessary – Rent arrears, nuisance etc...;
- Make referrals to relevant agencies to ensure vulnerable tenants with identified support needs are met;
- Serve Notice of Possession Proceedings (NOPP) and/or Notice of Extension (NDE);
- Present cases to review panel and County Court as required;
- Manage high level ASB cases;
- Conduct additional visits as necessary where issues relate to ASB;

### **Area Community Manager and Housing Manager – Lettings**

- Ensure compliance by staff with IT procedure;

- IT monitoring report;
- Ensure tenancy conversion takes place when IT ends;
- Monitor – Appointments for NTV's Review Panel Administered correctly, Case management;

### **Senior Managers**

- Review Panel Members;

### **Reasons to end an IT**

The Introductory tenancy agreement specifies the conditions for ending an introductory tenancy, when considered by the review panel, and may include but not limited to, the following:

- Arrears of rent or service charges;
- Breach of tenancy agreement;
- Actions likely to cause nuisance or annoyance to neighbours;
- Use of the premises for illegal or immoral purposes;
- Committing an arrestable offence in the dwelling or in the vicinity of the dwelling;
- Wilful damage to the premises or to any furniture supplied by the Council;
- Giving or instigation another person to give false information to obtain a tenancy;
- Where one or both parties in a relationship is the tenant and one partner has left because of violence from the other , the tenancy might be ended if it is clear that the person who vacated is unlikely to return;

### **Managing IT's**

#### **At Sign up**

- IT sign up checklist (IT- Introductory Tenancy sign up checklist)
- Implication of IT for tenant – reduce security of tenure etc...;
- Fully understand tenancy agreement (IT2 – introductory Tenancy Agreement);
- Tenancy convert to secure at successful end of IT;
- No requirement to sign new tenancy agreement when convert to secure;

#### **After sign up**

- Majority of tenancies will convert to secure at 12 month point without incident;
- 6 weeks (NTV) (IT4- Introductory tenancy visit review form);
- Tenancy sustainment – visits, early intervention, clear communication of remedies for tenancy breaches;
- Accurate records – used as supporting evidence for review panel and County Court;

### **Managing IT's Extension**

#### **Visiting Office concludes issues justify extension**

- At visit inform tenant, ensure that the tenant knows that they can request a review, complete (IT5);

- Following visit send tenant (IT6 – introductory Tenancy – extension letter)
- Pass , (IT5) and all relevant evidence to ACM/Housing Manager – Lettings;
- ACM/Housing Manager - Lettings approve extension (IT8 – NOPP/NDE evidence report) to be completed;
- Visiting officer to hand deliver to tenant(s) (IT9 – Notice to extend introductory tenancy);
- Note: Must be served at least 8 weeks before the tenancy is due to end;
- No review requested by tenant – send (IT10 – Introductory tenancy – extension confirmation letter);

### **Visiting Office concludes issues justify ending IT**

- **Note:** It is envisaged that the vast majority of IT's where it has been decided to end the tenancy will be in relation to persistent ASB;
- At visit inform tenant, ensure the tenant knows that they can request a review, complete (IT5);
- Following visit send tenant (IT7 – Notice of possession proceedings warning letter);
- Pass completed (IT5) and all relevant evidence to ACM/Housing Manager – Lettings;
- ACM/Housing Manager – Lettings approve notice to end tenancy
- Visiting officer to hand deliver to tenant(s) (IT11 – Notice of Possession Proceedings - NOPP);
- Note: Must be served at least 8 weeks before the tenancy is due to end;
- Allows time to file a case for court action before the end date of the tenancy;
- If a NOPP is served, and no application is made to the court before the end of the introductory tenancy it will automatically convert to a secure tenancy. In these cases if the breach continues when the tenancy becomes secure a notice seeking possession (NOSP) will need to be served and normal possession action procedures will follow;
- No review requested by tenant – send (IT12 – Notice of Possession Action Letter);

### **Reviews**

#### **Regulations**

The Introductory Tenants (Review) Regulations (IT(R) Regs) 1997 (Statutory Instrument 1997 No. 72) sets out the process for review and provides that:

- The review must be carried out by someone who was not involved in the decision to apply for possession;
- While there is no limitation set on who that person can be, he or she must be senior to the original decision-maker;

#### **Who will conduct the Review?**

Nominated Review Panel Members are:

Housing Service Lead  
Property Services Manager

Asset Manager  
Housing Options Manager  
Housing and Development Enabling Manager

## Reviews – Rights

Tenants will be briefed about their rights to request a review at:

- Sign up;
- When extension or ending of tenancy is initiated;

## Review Types

**Review without a hearing** – Where the tenant(s) wants the case to be reviewed, providing further evidence/information in writing for the Review panel to consider;

**Oral Hearing** – Where the tenant(s) wishes to attend a Review Panel for the case to be heard;

## Requesting a review

- Tenant has 14 days from service of **NDE/NOPP** to request a review **preferably in writing** stating what points they dispute in the **NDE/NOPP**;
- The review must be heard before expiry of the 4 week **NDE/NOPP**;
- Tenants are advised to use the **Request for a Review Form**, which is sent out with the **NDE/NOPP**;
- When requesting a review the tenant must indicate if they wish to attend an oral hearing, if this is not specifically requested the review will be conducted without a hearing;

## Preparation for a review

- Any officer who receives a request for either type of review must immediately notify the ACM/ Housing Manager – Lettings or in their absence the estates assistant or lettings assistant responsible for coordinating and administering the arrangements for the review;
- The estates assistant/lettings assistant will liaise with the Housing Service Lead where appropriate or the review panel chair and arrange for correspondence to be sent to the tenant(s) and for a time, date and venue to be booked;
- The estates assistant/lettings assistant will forward the relevant case file and notes to the Housing Service Lead or review panel chair;
- The case file will contain:
  - A summary of the case history - Introductory tenancy agreement;
  - Case/text notes from housing/ASB case file - All relevant correspondence including letters sent and received;
  - Victim diary sheets - A copy of the NOPP;
  - A copy of the NDE (if applicable) ASB policy (if applicable);
  - Copy of the Equalities Assessment (if applicable);
- The estates assistant/lettings assistant will send a standard acknowledgement letter to the tenant confirming receipt of request for a review, this will be by 1st class post;
- **Assistant to ensure review admin details are entered on CSM**

## Conduct of the Review

- All reviews will be recorded on the standard (IT13 - Introductory Tenancy Review Panel Form);
- Review panel officers guidance notes have been produced which are contained within (**IT14 - Review Panel guidance notes**)
- The review panel will consider:
  - If the **NDE** or **NOPP** was served correctly;
  - The evidence produced, including all evidence provided by the tenant, representations by the tenant, written notes from telephone conversations, all correspondence and the complete set of tenancy file notes relating to the case;
  - If it is reasonable and/or proportionate to take the action requested;
  - The Review Panel may take into account events occurring up until the date of the review. The Housing Services Lead or Review Panel conducting the review can consider reasons not given in the notice, provided that any prejudice to the tenant(s) is avoided by giving him or her the opportunity to address any new allegations;

## Review Panel Decisions:

- Uphold the decision to extend the tenancy/end the tenancy;
- Decide not to proceed further with the case;

If the Review Panel decide not to proceed to eviction on the review, but to extend the introductory tenancy, they must ensure that there will be:

- Sufficient time to allow a further review before the end of the introductory tenancy (8 weeks);
- There is sufficient time for the case to be referred to Court (8weeks);

## Review by Oral Hearings

- Oral hearings will only be conducted if specifically requested by the tenant;
- A minimum of three of the nominated review officers must conduct any oral hearings. One of the officers will Chair;
- The tenant(s) will be given at least 5 days written notice of the date, time and place of the oral hearing;
- The tenant(s) have the right to be accompanied to the hearing and/or be represented by another person (who need not be professionally qualified); and;
- The tenant(s) or representative may call witnesses, question any witness and make written representations;
- There is no right to force a person to attend as a witness;
- The case will be presented by the estates officer, who can use hearsay evidence and will not have to identify the complainant;
- The review must satisfy the requirements of administrative law and be fair. The tenant must be given the opportunity to answer properly the allegations made against him or her;

- The tenant and his or her representative must have a proper opportunity to prepare for the hearing. This means that documents that the landlord intends to rely on should be disclosed in advance of any hearing;

### **Reviews – Absence and Adjournments**

The Introductory Tenancy Review Regulations 1997 state that:

- If the tenant(s) or their representative fails to appear (notice having been given), the person conducting the review may proceed (having regard to all the circumstances including any explanation offered for the absence) or give directions regarding the conduct of the review as they think fit;
- The tenant may ask for the landlord to postpone the hearing and the landlord may grant or refuse the application as it sees fit;
- The chair of the panel has wide powers to adjourn the review hearing at any stage. If the review is adjourned or part heard and the composition of the panel varies; a new review panel and hearing is required;
- If the review is by oral hearing, the review can proceed in the absence of one of the panel, providing the tenant or his or her representative consents;
- Where hearings are postponed or adjourned they must be completed within the 4 weeks of the notice period;

### **Reviews – Outcome**

- Notification of the outcome of the review must be given to the tenant by a nominated member of the Review Panel by sending (**IT15 - Outcome of review letter**) before the date after which proceedings for possession may be begun, as set out in the Notice of Proceedings for Possession;
- If the original decision to proceed with ending, or extending the introductory tenancy for a further 6 months is upheld the council must offer the tenant the reasons why this is the case;
- Notification of decisions will be in writing using the standard letters. Letters of notification will be sent by first class post;
- If the review finds in favour of the tenant then a secure tenancy will take effect at the end of the introductory period;

### **Court Proceedings**

- EO complete County Court Application (Form N5), send application to court with correct fee;
- Court will respond with hearing date;
- EO to complete **IT16** – (Court date letter) and send to tenant
- EO complete Statement of Truth and prepare 3 copies (EO, Judge, Tenant) of evidence for court to include:
- T/A, all correspondence, including (**IT4, IT5, IT7, IT8, IT9, IT10, IT11, IT12, IT15**);
- Details of referrals for support, Action taken to support tenant
- EO to hand deliver **IT17** – (Statement of Truth Letter) at least 72 hrs. prior to court hearing to include copies of all evidence that will be relied upon in court;
- Individual EO will present their own case at court (in cases of sickness or other absence manager to approve which officer to present case);
- Court grant possession;
- EO to complete eviction checklist and send to PFH and Housing Options;

## **Court Proceedings – Challenges**

- Although a Court Order is still required to bring an introductory tenancy to an end, unlike a secure tenancy where possession is at the Court's discretion, the Court must grant possession of an introductory tenancy when sought by the council, provided the council has complied with all of the introductory tenancy procedural requirements;
- While the Court has no discretion in granting a Possession Order, cases can however be subject to an Article 8 Human Rights defence and the Court will then consider proportionality. Officers must ensure their investigations are as robust as they would be if taking action against a secure tenant;

## **Evictions – Challenges**

- Although there is no statutory defence to any action brought, provided the correct procedural steps have been taken. This is not to say that there can be no legal challenge to the decision to evict;
- The decision to evict can be challenged on administrative (i.e. public) law principles;
- If the landlord has not acted in good faith, or has not acted fairly, or has taken irrelevant considerations into account, it could be challenged;
- The burden lies on the tenant(s) however to show that there has been a public law failure in this respect;

## **Possession**

- Tenant leaves property as per court order;
- Keys to Lettings for re-let;
- Or Tenant does not leave;
- EO complete **IT18** – (Warrant Application Letter) send to tenant;
- EO complete N325 and send to court with correct fee;
- Court confirm warrant appointment;
- EO complete **IT19** – (Eviction notice) to notify tenant;
- EO coordinates eviction, supervises property clearance;
- Completed eviction checklist and keys to Lettings for re-let;

During the discussion of this item the following points were made:-

- What would happen to the evictee if they had small children? We would need to test that it was reasonable and proportionate to evict these tenants. There was an eviction check list with which we would have to check. Unfortunately sometimes we have to evict tenants with small children to protect the neighbourhood from disruptive tenants, they must understand that their behaviour was putting their tenancy at risk and they were making themselves voluntary homeless. In the case of small children they would be given assistance by the homeless team to look for alternative accommodation via private rent;
- What evidence would you need to evict tenants? All evidence received was documented and presented to the tenant;

**Resolved** that the officer's report be noted.

## 6. Fees and Charges 2017/18

The Interim Business Support Lead and Project Manager Housing Services gave an update as set out in the report that set out the proposed fees and charges for Housing and Community Services in 2017/18.

It was proposed to increase housing (non-rent) fees and charges by applying Retail Price Index inflation as at September 2016 (2%). This was in accordance with the 30 year Housing Business Plan.

Reported that The Equality Impact Assessment covered all of the groups that were affected in all the different charges. There were no disadvantages to any groups.

The following are exceptions:

- Charges for properties not on mains sewer – these cannot be set until we are informed by Wessex Water;
- Extra Care Housing- A new service model was agreed and supported by the Tenant Service Management Board , Community Scrutiny and the Executive Portfolio Holder in April 2016;
- Temporary Accommodation – proposed to freeze charges on this as they are already at the maximum of the LHA (Local Housing Allowance) allowance;
- Other Temporary Accommodation – propose to increase fees for this to the LHA ordinary rate;
- Guest rooms – these are not very popular and underutilised so are running at a loss. These rooms are at present under review and could be changed if they are not utilised enough;
- Meeting halls – their charges were pretty low so a simplification of the charge will be made to a standard £10 per hour. Non community organisations would be charged an uplift of 2% which would be rounded up to the nearest 10pence.
- Garage charges – these charges were still pretty low. For Tenants the uplift would be 2%, private customers charge would go up by 5%. Sometimes Tenants took on a second garage, that would be charged at the private charge rate;
- Council housing rents – these would be set early in the New Year in line with Government Guidance;
- Discretionary services under the Local Government Act 2003;
- Contractually and through section 10 of the Housing Act 1985 (as amended by Local Govt & Housing Act 1989);

During the discussion of this item the following points were made:-

- Could the service charges be rounded up to zero or 05 for accounting purposes?; This has been done with a couple of the charges but we are not able to do this with Service Charges as the policy that we use for this needed to relate to the actual costs of inflation. There were other charges where we could possibly round them up. Stated that Services Charges were communal charges for communal areas such as grounds maintenance, the heat and light and special charges for sheltered housing and extra power. We could choose to round up other charges but the problem with this is that every year inflation was applied then this would add up to these little pennies again. What was

discussed at the Housing Revenue Account Business Plan was that we would apply 2%, so basically doing what we stated we were going to do. There would be a significant amount of review in the Business Plan when we implemented this and you would see a change. For example you could see charges being applied to mobility scooters and their storage, as at present we do not make a charge for this, but there are those who say that we should be making a charge for this service.

- Looking at the charges some are obligatory others are not obligatory for example I would like you to look at the private sector and find me a garage that I can rent for less than £10 per week, if you can I would be very surprised. This would be in regard to the private tenants who should be paying a minimum of £10 per week. We could take your recommendations to the Corporate Scrutiny Committee, it would then pass from there to the Executive Committee. If you would like to make a recommendation in increasing the garage rent for private hire beyond the 5% increase then that is what we need to hear.
- Considering that most garages were not used for storing Cars or Motorbikes as per the tenancy agreement and were used for storing building materials/ surplus items you could not get a storage unit for £10 per week.
- Frustrations with grounds maintenance;
- The board to nominate a champion to get more involved in the project for service charges and grounds maintenance and how they are set.

**Resolved** that the Tenant Services Management Boards recommendation that the garage charge for private rent be increased to £10 plus vat per week.

(The meeting ended at 7.05pm)