

# APPENDIX O

## WAVERLEY BOROUGH COUNCIL

### COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE – 15 JUNE 2009 EXECUTIVE – 7 JULY 2009

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**Title:**

**INTRODUCTORY TENANCIES**

[Portfolio Holder: Cllr Keith Webster]

[Wards Affected: All]

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**Summary and purpose:**

In line with a recommendation arising from the Audit Commission's inspection of the Housing Service, this report considers the advantages and disadvantages of Introductory Tenancies in housing management. The report, which was considered by the Community Overview and Scrutiny Committee at its meeting on 15 June 2009, invites members to consider whether the Council should implement Introductory Tenancies for new tenants in Waverley's housing stock.

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**How this report relates to the Council's Corporate Priorities:**

This report relates to Corporate Priority Three: Subsidised affordable housing - working for more affordable housing to be built, and managing Council housing well.

**Equality and Diversity Implications:**

Introductory Tenancies, if adopted, would apply to all new tenants of Waverley. However, due care and regard would need to be given to ensure the fair treatment of all when assessing the management of a tenancy at the end of the introductory period.

**Resource/Value for Money implications:**

If adopted additional resources would be required for staffing, training and administrative amendments. To consider the Value for Money of adopting Introductory Tenancies.

**Legal Implications:**

If adopted, there would be legal implications in creating new agreements and legal proceedings.

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**Background**

1. One of the Audit Commission's recommendations on improving performance in service areas is to consider the use of Introductory Tenancies.

2. In the 1990s, when the legislation was passed bringing-in Introductory Tenancies, the Council considered whether to use them. In the event, at that time, the Council decided not to do so for a variety of reasons. These included: ensuring that tenants should have maximum security of tenure; and that all new tenants should not be treated differently to people who became Council tenants previously. There was concern that as a relatively large proportion of new tenants were elderly, and there were relatively low levels of anti-social behaviour occasioned by new tenants, it was disproportionate course of action. Furthermore, it was considered that the administrative burden to manage the use of introductory tenancies would outweigh any advantages that might be gained.
3. However the social housing environment has changed over the past 10 or so years and the Audit Commission recommendation gives us an opportunity to review this decision. The Council needs to consider whether Introductory Tenancies would now be of benefit to Waverley Borough Council. The decision should also be taken in the context of the review of the current Tenancy Agreement and the Council signing-up to the Respect agenda.

### **Introduction**

4. The Housing Act 1996 (Part V Section 124) gives local authorities discretionary powers to establish Introductory Tenancies. Introductory Tenancies are a probationary or trial tenancy, which give the tenant fewer rights than a secure tenant. During the 12-month introductory period the landlord can relatively quickly and easily terminate the tenancy. Provided a valid section 128 Notice has been served the court must give possession. The authority does not have to give evidence for grounds of possession nor prove reasonableness to the court. After the introductory period, if a tenancy is deemed to have been conducted satisfactorily, it will automatically become secure. If not, the Introductory Tenancy may be terminated or extended for a further six months. Tenants have the right to review (including an oral hearing) the decision to extend the Introductory Tenancy or seek possession. If an authority decides to establish an Introductory Tenancy scheme, all new tenants must be granted Introductory Tenancies. However, existing secure tenants and any tenancy where one of the tenants was previously a secure tenant remain intact.
5. Housing Associations have the same discretionary powers to adopt Starter Tenancies, which are effectively the same as Introductory Tenancies before granting a full Assured Tenancy.
6. There are many reasons why landlords may want to use introductory or starter tenancies, for example:
  - to send a message that the organisation takes anti-social behaviour seriously;
  - to reduce anti-social behaviour amongst new tenants;
  - to enable quick and easy eviction of new tenants;
  - because they enable a quicker response to rent arrears;
  - because tenants think that they are a good idea as a matter of principle;
  - because councillors or board members think that they are a good idea;

- because partner landlords use them;
- because they will be a useful part of a package of measures for community; and
- for regeneration and support.

Annexe 1 outlines the advantages and disadvantages of an Introductory Tenancy and outlines the range of factors that need to be taken into consideration when determining whether or not to adopt Introductory Tenancies.

### **Local evidence of success**

7. In considering the need for Introductory Tenancies, the Council should consider how or if its partners use Introductory Tenancies. The majority of our landlord partner organisations do use introductory or starter tenancies:
  - Thames Valley Housing Association
  - London and Quadrant Housing Association
  - Mount Green
  - Hyde Housing
  - Sentinel (Hart)
  - Pavilion Housing (Rushmoor)
  - Guildford BC
8. Anchor Housing Group, James Butcher Housing Association and CDS Co-op do not use starter. Downland Housing Association has only used them in one scheme in Portsmouth.
9. Pavilion, TVHA, Raglan and Downland responded to a survey to share their experiences of Introductory Tenancies.
10. TVHA started using starter tenancies in April 2008 to adopt good practice in dealing anti-social behaviour. To date TVHA report that they have issued 649 starter tenancies, noted a decrease in anti-social behaviour and a slight decrease in arrears. There have been no extensions, no evictions and two conversions so far.
11. Pavilion started using starter tenancies in 2007 to try and control anti-social behaviour on their estates. They have had a small number with 15 starter tenancies in 2008/9 and 12 in 2007/8. Pavilion report that:
 

*“We have found that problems are diminished and nipped in the bud once starter tenancies are explained including the fact that we can terminate within the year if required.”*
12. Raglan has had a phased implementation of starter tenancies. They adopted the use of starter tenancies on selected developments (in consultation with relevant local authority partners) as early as 2005 where there was demonstrable evidence of problems with anti social behaviour, in accordance with the Housing Corporation guidance. In July 2008 they decided to roll out starter tenancies to all new lettings. Raglan report 294 starter tenancies in 2008/9, 101 in 2007/8 and 54 in 2006/7. Of which an average of 13% were

extended due to unsatisfactory tenancy management and on average 3% resulted in eviction. Raglan also report a small decline in reported anti-social behaviour and rent arrears but have no objective evidence to link this to starter tenancies. They also state:

*“The only problem that we have identified is the additional burden that falls on front line staff in ensuring that tenancies are reviewed at regular intervals within the first 12 months, and that these are recorded in sufficient detail.”*

### **Resource implications**

13. To implement an Introductory Tenancy scheme will require an overhaul of our current tenancy procedures and practices.
  - The tenancy agreement would need to be adapted to reflect the Introductory Tenancy and subsequent secure tenancy.
  - New leaflets would be required to explain Introductory Tenancies costing c£500.
  - Additional tenancy visits at six months would be required. There is currently no capacity for this and it is estimated that the requirement would amount to the equivalent of one additional part-time post at a cost of approximately £15,000 per annum including on-costs. All housing management policies and procedures would need to be updated to reflect the two types of tenancy.
  - Staff training would be required for all front line staff.
  - Additional functionality would be required of our IT systems to show Introductory Tenancies, hold review dates, actions taken and transfer to secure tenancy dates.
  - The automated rents system would need to be updated to reflect the two types of tenancy.
  - Senior Officer time would be required to review each Introductory Tenancy at nine months and make a decision on whether to grant a secure tenancy.
  - The internal eviction sign off process would need to be amended to delegate authority to approve evictions.
  - A new review process would need to be created to assess tenants cases where the Introductory Tenancies had been extended or a notice for possession served.
  - A Review Panel would need to be created, with member and tenant representatives to conduct oral hearings. Training would need to be arranged.
14. All of the above requirements would have on-going revenue resource implications.
15. Whilst the Council has made additional resources available within the revenue budget for 2009/10 to help implement the Audit Commission's recommendations, this will not be recurring revenue.

16. The HRA revenue budget is under pressure. Where practicable, posts are have been deleted from the landlord service putting remaining staff under additional pressure and there is an on-going vacancy savings target. An additional post or half-post could only be funded by reducing spend elsewhere in the landlord service.

### **Conclusion**

17. Waverley must have clear objectives for adopting Introductory Tenancies with outcomes to measure the success and effectiveness.
18. Waverley Borough Council must consider if the adoption of Introductory Tenancies is appropriate given level of anti-social behaviour, range of new tenants, evidence of partners, additional administrative requirements and cost.
19. The Landlord Services Partnership SIG, held on 21<sup>st</sup> May 2009, received a presentation on Introductory Tenancies. The LSP SIG concluded that in the Waverley context Introductory Tenancies would not necessarily add enough value to warrant the additional resource required to manage such tenancies. The LSP SIG suggested that the issue of Introductory Tenancies be reviewed every three years, or earlier if, in the opinion of the Housing Portfolio-Holder, circumstances had changed sufficiently to warrant consideration again.

### **Community Overview and Scrutiny Committee**

20. The Committee considered the report, taking into account the views of the Landlord Services Partnership SIG. Some members considered that the introductory tenancies would benefit tenants suffering from antisocial behaviour and would outweigh the additional resources required. However, members overall were of the opinion that the Council had sufficient measures in place to deal with perpetrators of antisocial behaviour.
21. The Committee noted that a relatively large proportion of new tenants were elderly, a group not associated with antisocial behaviour, and introductory tenancies could lead to a concern over the security of their tenancies.
22. The Committee endorsed the views of the Landlord Services Partnership SIG in paragraph 19 above. The Committee concluded that, after due consideration, it was not necessary for the Council to adopt Introductory Tenancies.

### **Recommendation**

It is recommended that the Executive:

1. notes the comments of the Landlord Services Partnership SIG;

2. considers the observations of the Community Overview and Scrutiny Committee which concluded that Introductory Tenancies should not be introduced by the Council; and
3. agrees that Introductory Tenancies should not be adopted by the Council and that a review be conducted in 2010, or earlier if, in the opinion of the Housing Portfolio-Holder, circumstances had changed sufficiently to warrant consideration again.

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**Background Papers (SDCS)**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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## Annexe 1

### The advantages and disadvantages of an Introductory Tenancy

Advantages	Disadvantages
<ul style="list-style-type: none"><li>• mandatory possession</li><li>• trial tenancy</li><li>• prove ability to manage tenancy</li><li>• addresses nuisance and annoyance, anti-social behaviour, rent arrears and other tenancy issues quickly</li><li>• shows commitment to addressing anti-social behaviour and part of the Respect agenda</li></ul>	<ul style="list-style-type: none"><li>• less security of tenure</li><li>• no right to buy, although the introductory period counts towards the discount</li><li>• no right to take in lodgers</li><li>• no right to sub-let</li><li>• no right to improve</li><li>• no right to exchange</li><li>• no right to vote prior to transfer to new landlord</li><li>• blunt tool for minority problem</li><li>• no account of ability to manage a private tenancy</li></ul>

#### **Local Factors to be considered:**

1. In considering the use of Introductory Tenancies the Council must consider a range of factors to establish if there is a need to adopt Introductory Tenancies:
  - 1.1 **Nature of Waverley Borough Council's stock**

As at 1 April 2009 Waverley Borough Council has 4,984 homes. 25% of the stock is sheltered or over 50s designated accommodation, and 57% of the stock is family sized accommodation.
  - 1.2 **Number and type of new tenants**
    - 1.2.1 Over the last four years there have around 300 vacant properties a year. A significant proportion (35-40%) of these vacancies are let to elderly or disabled households. Please see [Annexe 2](#).
    - 1.2.2 Waverley has a good record of rehousing transfer applicants (i.e. existing tenants who need to move to alternative accommodation). Over the last four years Waverley Borough Council has housed 443 current Waverley and Housing association tenants. These tenants would be excluded from the Introductory Tenancy scheme if adopted. Please see [Annexe 2](#).
  - 1.3 **Support to new tenants**
    - 1.3.1 The Housing Options Team assess each application for housing received. Applicants are assessed according to housing need and their ability to maintain a tenancy. Waverley Borough Council has a Choice-Based Lettings scheme and all applications are reviewed when a successful bid has been made. The assessment enables officers to identify any potential difficulties

the applicant may have with holding a tenancy and support from relevant agencies can be sought.

- 1.3.2 When new tenants collect the keys to their new home they have a sign up interview with their Housing Management Officer. At this interview the officer explains all the tenancy conditions and will identify any support needs. A further interview is held within six weeks of the tenancy starting by a Community Housing Officer to check the new tenant has settled into their new home. The officer will assess how the tenant is managing their tenancy and make any support referrals required.

#### 1.4 **Support to all tenants**

- 1.4.1 Housing Management Officers and Rent Account Officers provide advice and make referrals for support for all tenants when they see a tenant having problems managing their tenancy. Waverley Borough Council has three dedicated tenancy support workers with specialism in complex needs and mental health. Officers work in partnership with other support agencies Community Mental Health Team, Social Services and Citizens Advice Bureau.

#### 1.5 **How significant is anti-social behaviour?**

- 1.5.1 The 2008/9 STATUS survey asked tenants to identify three services, which were most important to them. Please see [Annexe 3](#).
- 1.5.2 Dealing with anti-social behaviour was not identified as one of the two most important services. This suggests, generally speaking that anti-social behaviour is not perceived as a significant issue for most tenants.
- 1.5.3 The 2008/09 STATUS survey also illustrated that 9% of tenants had reported an anti-social behaviour issue in the last 12 months. Waverley Borough Council's performance indicators show that there were 80 reported cases of anti-social behaviour in 2008/9 and 95 cases in 2007/8. Therefore, if all the reports are correct some 2% of tenants are causing anti-social behaviour.
- 1.5.4 The 2008/9, 2006/7 and 2003/4 STATUS surveys have all illustrated that the main problem to tenants is rubbish and litter (57%, 52% and 20%). The surveys have reported that Waverley is relatively free of any serious anti-social behaviour issues.

#### 1.6 **Anti-social behaviour policy and procedure**

- 1.6.1 Waverley Borough Council is committed to dealing with anti-social behaviour and has a comprehensive policy and procedure. The policy states that one priority is

*“taking action to discourage and prevent ASB and harassment which the housing department is responsible for managing.”*



1.6.2 Introductory Tenancies could be an additional way to meet this priority. Within the anti-social behaviour policy and procedure the council already uses demoted tenancies which reduces a tenants security for 12 months. Since the introduction of the demoted tenancy policy in November 2006 there have been two demotions during 2008/09 and none recorded during 2007/08.

## 1.7 **Will Introductory Tenancies assist in dealing with anti-social behaviour?**

1.7.1 The Council must consider whether the adoption of Introductory Tenancies will improve its ability to deal with antisocial behaviour. Waverley has a strong partnership with the Police and support agencies working together to tackle anti-social behaviour. Officers have a comprehensive range of remedies; from mediation, Acceptable Behaviour Contracts, injunctions, tenancy demotions and possession orders.

1.7.2 Over the last two years there have been 175 anti-social behaviour cases. Of these cases c15% were caused by new tenants. There were two evictions due to anti-social behaviour in 2008/9 and one in 2007/08. The evictions in 2008/9 were due to the tenants running crack houses from the properties. The first had transferred into the property and had been resident over three years before problems started. The second had been resident five months when the problem started. In 2007/08 the evicted tenant had been a tenant for over four years before action was taken. Eviction should always be the last resort as other measures have failed when dealing with anti-social behaviour.

1.7.3 In it's recent inspection the Audit Commission commended Waverley Borough Council on its tenancy management by stating:

*"An appropriate and proportionate approach is taken to managing tenancies. The borough experiences relatively low levels of nuisance and anti-social behaviour. Nevertheless, the Council takes a proactive approach which is demonstrated by positive outcomes. .... The Council works well with partners to take effective action to tackle anti-social behaviour (ASB) and to prevent incidences occurring."*

1.7.4 This illustrates that the Council is successfully preventing and managing anti-social behaviour.

1.7.5 The Council will have the same duty of care to ensure appropriate advice and support is given to assist in stopping anti-social behaviour and preventing homelessness irrespective of the type of tenancy.

1.7.6 The expected benefits of Introductory Tenancies are that a less secure tenancy will:

1. deter new tenants from causing or allowing anti-social behaviour
2. illustrate a strong commitment to tackling anti-social behaviour, and
3. access additional support from other agency for introductory tenants
4. enable swifter action to be taken if it is necessary to remove a new tenant from the property.

1.7.7 The contrary argument would be that:

1. current tenants are also likely to cause anti-social behaviour
2. there is a strong published and proven commitment to tackling anti-social behaviour, and
3. there is successful partnership working with other agencies for secure tenants

## Annexe 2

### Nature of Waverley Borough Council's stock

#### New Tenant Profile

	2005/6	2006/7	2007/8	2008/9
Elderly single, elderly couple, over 50s and disabled	36% (110)	35% (108)	41% (122)	38% (108)
Family	42% (128)	36% (110)	37% (112)	37% (105)
Single or couple under 50	22% (65)	29% (90)	22% (66)	25% (69)
Total	303	308	300	282

#### Type of Applicant

	2005/6	2006/7	2007/8	2008/9
Transfer applicant	37% (112)	39% (120)	37% (111)	36% (100)
Housing Needs applicant	51% (154)	53% (164)	59% (178)	62% (176)
Homelessness applicant	12% (37)	8% (24)	4% (11)	2% (6)
Total	303	308	300	282

## Annexe 3

### 2008/9 STATUS Survey - Most important services to tenants

