



Housing and Community Overview and Scrutiny Committee

Report for:	Housing & Community Overview and Scrutiny Committee
Title of report:	Tenancy Agreement Review
Date:	4 December 2024
Report on behalf of:	Councillor Simy Dhyani, Portfolio Holder for Housing & Property Services
Part:	I
If Part II, reason:	N/A
Appendices:	<ul style="list-style-type: none"> Appendix 1 – Summary of Changes
Background papers:	None
Glossary of acronyms and any other abbreviations used in this report:	<p>General Data Protection Regulation (GDPR)</p> <p>Dacorum Borough Council (DBC)</p> <p>Tenant & Leaseholder Committee (TLC)</p> <p>Senior Leadership Team (SLT)</p>

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Corporate Priorities	<p>Community engagement: Engage with residents and partners to have a real say on our services and the borough</p> <p>Homes to be proud of: Enable well-maintained and affordable homes, where people want to live</p>
Wards affected	ALL

Purpose of the report:	1. Inform Members of the Tenancy Agreement review, the proposed summary of changes and provide recommendations for further revisions.
Recommendation (s) to the decision maker (s):	1. Provide feedback regarding the proposed changes.
Period for post policy/project review:	Upon material change in delivery or legislation

1 Introduction/Background:

The tenancy agreement is a contract between the tenant and the council that states what the council's legal obligations are and what the tenants are, this written agreement exists to ensure that when new tenancies are let the tenant(s) are aware of the requirements that are expected to live in the property. Tenancy agreements must comply with legislation, includes the Housing Act 1985, Localism Act 2011, General Data Protection Regulation (GDPR), and Health and Safety regulations.

Dacorum Borough Council (DBC) is conducting a review of its Secure Tenancy Agreement, which is issued to tenants. Following the review and a statutory consultation period, the revised agreement and its conditions will apply to both existing and new tenants.

While the tenancy rights of social housing tenants are determined by legislation, the tenancy conditions allow landlords to manage their housing stock effectively and ensure compliance with regulations.

2 Key Issues/proposals/main body of the report:

The last review of DBC's Tenancy Agreement for social housing occurred in 2012, following the introduction of new provisions in the Localism Act 2011. In 2013, DBC began offering flexible fixed-term tenancies for all new tenants.

However, after consulting residents in 2019, DBC's Cabinet decided to cease offering flexible fixed-term tenancies from April 1, 2020, and revert to offering secure tenancies only.

At that time, two key recommendations were made:

1. Implement a programme of regular tenant visits (now known as 'Tenancy Reviews').
2. Undertake a full review of the current Secure Tenancy Agreement.

Due to the restrictions caused by the COVID-19 pandemic, work on the second recommendation was delayed. This project aims to restart the work and ensure that the Tenancy Agreement is up to date and fit for purpose.

Purpose of the review

The review is designed to assess whether the current Tenancy Agreement remains fit for purpose, focusing on whether clauses need adjusting, removing, or adding. Despite the delay, this goal remains unchanged.

This review also offers an opportunity to engage meaningfully with our residents, in accordance with the Consumer Standards for social housing providers, allowing their views on the proposed changes to be heard.

The Tenancy Agreement governs the relationship between tenants and their landlord, outlining the roles, rights, and responsibilities of both parties. As the agreement has not been updated in over ten years, some elements are now outdated and in need of revision.

Summary of key changes to the Tenancy Agreement

Several key changes have been recommended as part of this comprehensive review to improve clarity, ensure legal compliance, and enhance communication between tenants and DBC. These updates are intended to create a more transparent and accountable relationship between the two parties, fostering better tenancy management.

Below is a summary of the most important changes and their significance:

a) Non-interference (Clause 1)

- **Change:** The clause now includes the possibility of interference when a court grants an injunction against the tenant.
 - **Importance:** Provides clarity on additional legal scenarios where the council may need to interfere with the tenant's right to quiet enjoyment, helping to prevent disputes.
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b) Ensuring the Property is Habitable (Clause 2)

- **Change:** A reference to specific housing standards (e.g., Housing Health and Safety Rating System) has been added to define what "fit for human habitation" means.
 - **Importance:** Ensures transparency regarding the level of upkeep tenants can expect, reducing ambiguity about the landlord's obligations.
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c) Repairs to Structure and Installations (Clause 3)

- **Change:** A timeframe for urgent repairs has been added.
 - **Importance:** Clear response times give tenants confidence that essential maintenance will be addressed promptly, improving accountability.
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d) Consequences for Non-compliance (Clauses 9 & 11)

- **Change:** New provisions detail the consequences if tenants fail to notify the council of their inability to move in within 14 days or of extended absences.
 - **Importance:** Encourages better communication, ensuring smooth tenancy management and preventing misuse or abandonment of properties.
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e) Periodic Visits and Tenancy Reviews (NEW Clause 10)

- **Change:** A new clause has been introduced, requiring tenants to allow access for periodic home visits to review their tenancy and household details. Tenants must also inform the Council of any changes in their circumstances between visits.
 - **Importance:** Ensures the Council can monitor compliance with the tenancy agreement, verify household composition, and remain updated on changes. This helps detect breaches of tenancy and maintains ongoing communication, preventing issues related to eligibility or misuse.
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f) Health and Safety Obligations (Clause 24)

- **Change:** Penalties for repeated health and safety violations (e.g., tampering with fire doors) have been introduced.
 - **Importance:** Strengthens the focus on maintaining safe living environments, particularly in communal spaces, and helps protect residents from potential hazards.
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g) Right to View Personal Information (Clause 55)

- **Change:** A clear timeframe for the council's response to GDPR data access requests has been added.
 - **Importance:** Aligns with GDPR regulations, ensuring tenants are informed of their rights regarding personal data and that the council meets its legal obligations.
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h) Right to Complain (NEW Clause 59)

- **Change:** Specifies the formal complaints procedure and includes the option to escalate complaints to the Housing Ombudsman if necessary.
 - **Importance:** Enhances tenant rights by providing clear guidance on how to seek external resolution if the council's response is unsatisfactory.
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i) Emergency Access (Clause 60)

- **Change:** Specific examples of emergencies (e.g., gas leaks, floods) have been added to clarify when the council can enter the property without notice.
 - **Importance:** Provides tenants with a clearer understanding of emergency access scenarios, reducing confusion.
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j) Returning Keys (Clause 64)

- **Change:** The clause now outlines the procedure for lost or damaged keys, including the need to notify the council immediately.
- **Importance:** Addresses common practical issues like lost keys, ensuring smooth and predictable tenancy turnover.

Other notable amendments:

- Assistance with internal decorations for Supported Housing Tenants has been removed (Clause 20).
- Access for viewings during the notice period has been clarified (Clause 65).
- References to supporting policies, such as the Tenancy Management Policy and the Safety in Communal Areas Policy, have been introduced. This ensures that detailed information is in the relevant documents, so the Tenancy Agreement will not need frequent updates if these policies change.

For a full breakdown of the proposed changes, please refer to **Appendix 1**, where comparisons between the current and revised clauses are provided.

3 Options and alternatives considered

- a) Progress the review of DBC's current Tenancy Agreement as outlined in this paper – recommended.

- b) Continue to use the Tenancy Agreement in its current format – not recommended due to the risk identified below.

4 Consultation

Consultation to date has been undertaken across Housing & Property Services, with the Tenant & Leaseholder Committee (TLC) and Senior Leadership Team (SLT).

Feedback from Pre-Consultation Process

Feedback from the pre-consultation process, including input from TLC and SLT will be incorporated into the agreement, with adjustments made as needed. Alongside this, the agreement will be benchmarked against other local authorities to ensure best practices are integrated. The final draft will then undergo review by Legal Services to confirm compliance.

Following this, the final draft clauses will be presented to the Housing & Property Services Leadership Team, Portfolio Holder, and Senior Leadership Team for further consideration.

Formal Tenant Consultation

Formal consultation with tenants, as required under Section 105 of the Housing Act 1985, will follow. This consultation will last at least one month and include online surveys, face-to-face events, dedicated web pages, social media updates, the Housing Matters newsletter, Dacorum Life magazine, and communication via email, letters, and texts.

Final Approval and Implementation

Once the consultation ends and any necessary amendments are made, the final agreement will move through the council's approval processes, culminating with Cabinet. Tenants will then receive a formal Notice of Variation under Section 103 of the Housing Act 1985, informing them of the effective date of the changes.

Each tenant will also be provided a copy of the new Tenancy Agreement for reference. Options are currently being explored to produce these agreements efficiently and cost-effectively, minimising impact on the HRA.

5 Financial and value for money implications:

The financial implications of reviewing the Tenancy Agreement primarily involve staff time, legal consultation fees, and printing and distribution costs.

6 Legal Implications

Tenancy agreements need to comply with current legislation, including the Housing Act 1985, Localism Act 2011, General Data Protection Regulation (GDPR), and Health and Safety regulations. The review ensures that Dacorum Borough Council meets its statutory obligations and mitigates the risk of legal disputes.

An out-of-date agreement could leave DBC exposed to legal challenges, so a thorough update is required to reflect:

- Developments in case law
- Legislative updates
- Internal DBC policy changes
- New tenancy-related contractual terms

7 Risk implications:

There are no risks identified from the proposed changes. Updates to the tenancy agreement, will ensure tenants are aware of the requirements of their tenancy agreement and related policies to support effective sustainment of the tenancy.

8 Equalities, Community Impact and Human Rights:

Community Impact Assessment has not been completed for the purposes of this report. An impact assessment will be undertaken to support second stage review.

9 Sustainability implications (including climate change, health and wellbeing, community safety)

There are no sustainability issues foreseen from this review.

10 Council infrastructure (including Health and Safety, HR/OD, assets and other resources)

There are no infrastructure concerns foreseen arising from this review.

11 Conclusions:

It is proposed to review DBC's Secure Tenancy Agreement, which is issued to tenants – ensuring that the agreement is updated to reflect current service delivery, ensuring it remains aligned with legislation. Members are asked to provide feedback on the initial proposed alterations and ahead of intended progression to the next stages of the review.