

## Report for Resolution

**Report to** Executive  
29 September 2010  
**Report of** Head of Housing Management  
**Subject** Variations to the current tenancy agreement

---

9

### Purpose

This report asks members to approve the changes proposed to the current tenancy agreement for all secure and introductory tenants.

### Recommendations

To vary the tenancy agreement as set out appendix 1, by serving formal notice of variation on all current secure and introductory tenants. The effective date of change will be 29 November 2010.

### Financial Consequences

No additional expenditure required.

### Risk Assessment

A current and effective tenancy agreement is essential to enable the efficient management of the housing stock and protect the rights of individuals to enjoy living in their home.

### Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority “Safe and healthy neighbourhoods – working in partnership with residents to create neighbourhoods where people feel secure, where the streets are clean and well maintained, where there is good quality housing and local amenities and where there are active local communities” and the service plan priority of improving the economy and efficiency of services for the benefit of service users.

**Executive Member:** Councillor Arthur - Housing and Adult Services

**Ward:** All

### Contact Officers

Tracy John	01603 212939
Paul Sutton	01603 212785
Nigel Brims	01603 212097

## Background Documents

None

## **Report**

### **Background**

1. Part of the drive to improve housing services and council homes is to improve the way council homes are managed. We wish to take positive action to encourage responsible behaviour. This requires the backing of a clear and accurate tenancy agreement. The Council's existing tenancy agreement has been in place since 2006 and some of the terms used within it are now outdated due to technical changes in the law. This opportunity has been taken to clarify some of the other conditions and expand on definitions where required. The new Conditions of Tenancy aim to be more easily understood and fully explain the rights and obligations of the council and its tenants. It also makes it easier for us to prove breaches of tenancy and take action when necessary.
2. The 1996 Housing Act Part V gave local authorities the power to set up introductory tenancies for new tenants as a measure to combat concerns about anti-social behaviour. Introductory tenancies are for a trial period that normally last one year. During the trial period, tenants have less security and fewer rights and if it is successfully completed, they automatically become secure tenants. In order to assess whether tenants are successfully maintaining their tenancies, three appraisals are carried out throughout the first year of tenancy. We propose to add a condition that makes it clear to introductory tenants that they must allow us to visit them during this time.

### **The consultation**

3. Before changing conditions of tenancy, local authority landlords must consult all their tenants by serving a preliminary notice. Comments received must be taken into account before then serving a notice of variation that formally implements the changes.
4. The preliminary notice and consultation exercise (dealing with changes to the conditions of tenancy) has been undertaken by sending all tenants a consultation pack.
5. A copy of the consultation pack is at Appendix 1. As can be seen, it includes an explanation of the proposed changes and their effect. Tenants were encouraged to comment on what they thought about the proposals.

### **Feedback from tenants**

6. Of the 16,113 consultation documents sent out 91 tenants responded with their comments. 29% of these gave approval to the proposed changes and 4% disapproved. 43% sought clarification on what the effect of the changes meant to them and 70% took the opportunity to raise personal issues with their tenancy, property or neighbourhood.
7. Tenants expressed a wish for the council to take appropriate enforcement action of the conditions of tenancy with regard to the communal areas, dog

fouling, nuisance and gardens.

8. A summary of the most common issues raised by tenants can be seen in Appendix 2.

### **Amendments to tenancy agreement following consultation**

9. A copy of the proposed final conditions is at Appendix 2. There are no substantive changes following the consultation exercise – only minor adjustments to improve or clarify.
10. Following the consultation it is recommended that the following amendments are made to the Norwich City Council secure and introductory tenancy agreement. ( **Bold paragraph numbers** refer to tenancy agreement sections)

#### **1. Introduction**

Paragraphs **1.2 & 3** have been amended because of a recent technical change in the law - the term *registered social landlord* no longer applies.

Paragraph **1.8** - the definition of rent - has been expanded to clarify the circumstances where it is made up of other charges in addition to the basic rent (see also **8.13**).

#### **2. Service and communication**

Paragraph **2.12** has been added to make sure that introductory tenants co-operate with the council so an appraisal can be carried out during the introductory trial period.

Paragraph **2.2** has been expanded to make it clear that there are other ways to get involved as a tenant without having to join or set up a tenant association.

#### **5. Antisocial behaviour**

In paragraph **5.2** the examples of circumstances that might be the object of harassment (age, gender, disability etc) have been revised to make them consistent with current best practice and council policy.

Paragraph **5.4** has been amended because of a recent technical change in the law. A different term (*indictable offences* not *arrestable offences*) now applies.

#### **8. Repairs, maintenance and safety of your home**

Paragraphs **8.7** to **8.14** have been amended to make clearer the obligations on tenants to maintain their property in a safe and acceptable condition. In particular:

- We need to ensure that all their own gas and electrical appliances are safe
- Bottled gas may only be used in limited circumstances and generally not in flats
- Gardens must be maintained to a neat and tidy standard (in addition to ensuring that tenants comply with the general obligations as to safety, access, hygiene and good order)
- In exceptional cases, where tenants are unable to maintain and cultivate gardens, they must pay an extra rent charge so that we may carry out the necessary work on their behalf (such extra charge qualifying for housing

- benefit if the tenant is otherwise eligible for housing benefit)
- Tenants must co-operate with arrangements for putting out refuse and recyclable materials for collection.

The beginning of paragraph **8.7**, has also been reworded to make it clearer that our repairing obligations remain in place and are not reduced.

## **9. Communal areas**

Paragraph **9.1** has been amended to make clear the existing rights and responsibilities of the landlord and tenants for communal areas. If you live in a block, you and the other tenants and leaseholders are responsible for cleaning shared areas, entrances, hallways, staircases and landings, unless you pay for the services of a premises manager as part of your weekly rent.

Paragraph **9.2** has been adjusted to reflect that repairs to any vehicles or appliances should not be carried out in internal entrance areas to flats.

## **10. Improvements and alterations**

Paragraph **10.3** has been amended to make it completely clear to all tenants that you must to get written permission from the council before installing sheds or other external structures. We wanted to clarify this, as the old wording could have been interpreted to mean that you didn't need this permission. Permission for such structures is important, as we want to avoid structures being built without permission that are then found to be dangerous and then have to make you take them down again.

## **14. Ending the tenancy**

Paragraph **14.8** has been slightly adjusted to make it clear that we will give four weeks' notice to end a tenancy on death. This makes no difference to Part **13** which deals with passing the tenancy on.

Part **14(C)**, paragraphs **14.9** to **14.11** have been amended to reflect technical changes in the law – certain tenancies now only end at the conclusion of court processes.

## **15. Occupation after your tenancy has ended**

Paragraphs **15.1** to **15.4** have been amended to reflect technical changes in the law – certain tenancies now only end at the conclusion of court processes.

## **16. Handing your home back to us**

Paragraph **16.1** has been amended to reflect technical changes in the law – certain tenancies now only end at the conclusion of court processes.

The word *also* has been added to the last sentence of paragraph **16.3** to make the position on recharges clearer, not to change the position.

Other amendments were made to punctuation and formatting to make the document clearer.

A full copy of the new agreement is available online or upon request from Laura Murphy (212829).

**Other/supporting comments**

11. The consultation feedback demonstrates that the new Conditions of Tenancy are more easily understood and fully explain the rights and obligations of the council and its tenants. This combined with the new neighbourhood working makes it easier to prove breach of tenancy and take appropriate and prompt action.
12. The Citywide Board publications group who found the document "to be one of most easily understood documents the council has produced." The group awarded the new agreement and accompanying correspondence a tenant tick.
13. Members are asked to agree to the above changes effective from 29 November 2010. If agreed, a formal notice of variation will be sent to all tenants after this meeting and including a full copy of the revised tenancy agreement.

**Appendices**

Appendix 1 – Initial consultation pack

Appendix 2 – Common issues raised during consultation.

## Norwich City Council

### Preliminary notice of the council's intention to vary standard conditions of tenancy (Housing Act 1985 section 103(2))

# Proposed variations and their effect

We have set out the variations we are proposing to make to your tenancy agreement in the table below.

We have indicated:

- where the variations are, for example 1. Introduction
- then set out the specific variation, such as the addition of an extra paragraph or the replacement of one word with another. Where text is crossed through with a line, this shows that we propose to remove the existing wording. Where text is in bold, this shows that we propose to add wording. For example,  
  
here: **some types of social housing** – the words: some types of social housing have been added  
here: ~~with a registered social landlord~~ – the words: with a registered social landlord have been removed
- and finally, we have explained the effect, or what it means to you as a tenant.

1. Introduction	
Variations:	<p>Proposed changes to 1.2:</p> <p>1.2 Introductory tenancy – Unless you already have a secure tenancy (or <b>some types of social housing</b> an assured tenancy <del>with a registered social landlord that is not</del> <b>other than</b> an assured shorthold tenancy), you begin your tenancy as an introductory tenant. Introductory tenancies are for a trial period.</p> <p>The trial period normally lasts one year, but may be extended.</p> <p>During the trial period, you have less security and fewer rights.</p>

<b>Variations:</b> (continued)	<p>For example:</p> <ul style="list-style-type: none"> <li>• your home is at much higher risk of repossession if you do not keep to this agreement;</li> <li>• you cannot buy your home; and</li> <li>• you cannot exchange homes with other tenants.</li> </ul> <p>Proposed additional wording to 1.8 (definition of rent):</p> <p>rent means the basic rent and other charges as notified by us to you at the beginning of your tenancy and whenever it changes (see, for example, paragraph 8.13: charges where we maintain your garden).</p>
<b>Effect:</b>	<p>1.2 Because of a recent technical change in the law, the term registered social landlord no longer applies.</p> <p>1.8 The definition of rent has been expanded to clarify the circumstances where it is made up of other charges in addition to the basic rent (see also 8.13).</p>
<b>2. Service and communication</b>	
<b>Variation:</b>	<p>Proposed additional paragraph:</p> <p><b>APPRAISALS DURING TRIAL PERIOD</b></p> <p><b>2.12 While you are an introductory tenant, you must allow us to visit you in your home and make yourself available accordingly. This is so we can carry out appraisals of whether or not you are successfully maintaining your tenancy during your trial period.</b></p>
<b>Effect:</b>	<p>This requires introductory tenants to co-operate with the council so an appraisal can be carried out during the introductory trial period.</p>
<b>5. Antisocial behaviour</b>	
<b>Variation:</b>	<p>Proposed change:</p> <p>5.4 You must not use your home for immoral or illegal purposes or commit <del>arrestable</del> <b>indictable</b> offences in the neighbourhood.</p>
<b>Effect:</b>	<p>Because of a recent technical change in the law, a different term now applies.</p>



## 8. Repairs, maintenance and safety of your home

<p><b>Variation:</b></p>	<p>Proposed changes:</p> <p><del>8.7 You must maintain your smoke detectors so that they work properly.</del></p> <p><del>8.8 You must not store anything in your home that is a safety risk. This includes the storage of petrol and other inflammable or toxic materials. In exceptional cases, it may include the storage of excessive paper, wood, building material or other such material.</del></p> <p><del>8.9 You must maintain your home to a standard of hygiene so as not to damage the fabric of the building, cause a nuisance or annoyance to your neighbours, or create a hazard for our staff or contractors.</del></p> <p><del>8.10 Remember that your home includes any garden area (see paragraph 1.8). This means that it, too, must be maintained to a standard so as not to be a problem for your neighbours or us.</del></p> <p><b>8.7 You must maintain your home and all appliances safely and not do anything that compromises the safety of you and your neighbours. For example, you must:</b></p> <ul style="list-style-type: none"> <li>• not store anything that is a safety risk (including, petrol and other inflammable or toxic materials)</li> <li>• ensure that your own gas and electrical appliances are serviced in accordance with manufacturers' advice and provide us with evidence on request (paragraph 8.8 deals with bottled gas appliances)</li> <li>• maintain your smoke detectors so that they work properly.</li> </ul> <p><b>8.8 You may only use bottled gas appliances in accordance with paragraph 8.7. In particular, you may only do so if the condition of your home and the lay-out of your home and neighbouring properties render it safe to do so and bottles are stored outside. Such appliances are not generally suitable for flats.</b></p> <p><b>8.9 You must not store any personal belongings to such an excessive extent that we or our contractors are unable to obtain access in accordance with paragraphs 11.1-3 (inspection and carrying out works) to the areas of your home required.</b></p>	
<p><b>Variations:</b> (continued)</p>	<p><b>8.10 You must maintain your home to a standard of hygiene and good order so as not to damage</b></p>	

	<p>the fabric of the building, cause a nuisance or annoyance to your neighbours, or create a hazard for our staff or contractors.</p> <p>8.11 Remember that your home includes any garden area (see paragraph 1.8). You must therefore maintain it, too, in accordance with paragraphs 8.7-10 as to safety, access, hygiene and good order.</p> <p>8.12 You must also maintain and cultivate your garden to a neat and tidy standard.</p> <p>8.13 If neither you nor or any other member of your household is able to maintain and cultivate your garden in accordance with paragraph 8.12 because of a physical or mental health condition, disability or long term illness, we may carry out the necessary work on your behalf. If we do so, your rent is increased to cover our charges. Rent is defined in paragraph 1.8. Part 3 deals with the rent calculation.</p> <p>8.14 You must co-operate over arrangements that apply from time to time for putting out your refuse and recyclable materials for collection.</p>	
Effect:	<p>Part 8 has been amended to make clearer the obligations on tenants to maintain their property in a safe and acceptable condition. In particular we propose:</p> <ul style="list-style-type: none"> <li>• to ensure that all gas and electrical appliances are safe</li> <li>• that bottled gas is only used in limited circumstances and generally not in flats</li> <li>• gardens are maintained to a neat and tidy standard (in addition to ensuring that they comply with the general obligations as to safety, access, hygiene and good order)</li> <li>• in exceptional cases, where tenants are unable to maintain and cultivate gardens, to pay an extra rent charge so that we may carry out the necessary work on their behalf (such extra charge qualifying for housing benefit if the tenant is otherwise eligible for housing benefit)</li> <li>• tenants co-operate with arrangements for putting out refuse and recyclable materials for collection.</li> </ul>	
<b>9. Communal areas</b>		
Variation:	<p>Proposed changes:</p> <p>9.1 We will maintain the communal areas to a <b>standard necessary for health and safety only</b>. <del>reasonable standard for the safety and well-being of you and your</del></p>	

neighbours. **But we can only deal with a hazard or danger if we have notice of it. It is your responsibility, jointly with other occupiers using the communal areas, to keep them clean and tidy.**

9.2 You must not do anything that is detrimental to other people's enjoyment of the communal areas. It is not possible to list all such activities, but common examples are:  
fly tipping;  
leaving things there that obstruct access or are otherwise a hazard or danger;  
carrying out car repairs (apart from occasional routine maintenance of your own vehicle **outside**);  
and graffiti.

<b>Effect:</b>	<p>9.1 Makes clear the rights and responsibilities of the landlord and tenants for communal areas.</p> <p>9. 2 This has been adjusted to reflect that motorcycle repairs should not be carried out in internal entrance areas to flats.</p>
----------------	---

## 10. Improvements and alterations

<b>Variation:</b>	<p>Proposed additional wording:</p> <p>10.3 Remember that your home includes any garden area (see paragraph 1.8). You must therefore get our written permission before you cut down trees, or carry out other major landscaping or garden works <b>or install sheds, other buildings or structures.</b></p>
-------------------	---

<b>Effect:</b>	Makes clear that written permission is needed before installing garden buildings.
----------------	---

## 14. Ending the tenancy

<b>Variation:</b>	<p>Proposed changes:</p> <p>14.8 Death – This paragraph applies if you die during your tenancy, you are the only tenant, and no family members are allowed to have the tenancy passed on to them (as explained in paragraphs 13.3-13.4). We can end the tenancy by giving four weeks notice to quit. Paragraph 2.11 explains the formalities of how we can do so. <del>We will only observe these formalities when there is a doubt about our right to take your home back and re-let it. If there is no doubt, we will take possession of your home. This is on</del></p>
-------------------	--

	<p><del>the basis that the tenancy has ended immediately in the way explained in paragraphs 14.13-14.15.</del></p> <p>14(C) BY US – COURT ORDER</p> <p>14.9 Except where paragraphs 14.6-14.8 apply, we can only end your tenancy by getting a court order <b>and then enforcing our right to possession.</b></p> <p>14.10 Before we apply to the court for <b>such</b> an order <del>ending your tenancy</del> we must give you a preliminary notice (sometimes called a notice of seeking possession or a notice of proceedings for possession). The notice will explain why we want to end your tenancy and what rights you have.</p> <p>14.11 We may then apply to the court <del>for an order ending your tenancy.</del> If you are an introductory or demoted tenant, you are at much higher risk of eviction. The court must make an order <del>ending your tenancy</del> if the judge is satisfied that we have followed the right procedure. In other words, the judge has no discretion to consider the overall merits of the case. If you are a secure tenant, you have more rights when the case comes to court. The judge must not only be satisfied that we have followed the right procedure, but also that we have proved one of the grounds for taking action set out in legislation. In most cases the judge must also consider the overall merits and be satisfied that it is reasonable to make an order. <del>Even if an order is made ending your tenancy,</del> <b>And</b> in some cases the judge may suspend eviction. This will normally be on condition, for example, that you make specified payments or keep to this agreement in the future.</p>
<b>Effect:</b>	<p>14.8 Minor adjustment makes it clear that, for the avoidance of any doubt, we will give four weeks' notice to end a tenancy on death.</p> <p>14(C) (14.9-14.11) Reflects technical changes in the law – certain tenancies now only end at the conclusion of court processes.</p>

## 15. Occupation after your tenancy has ended

<p><b>Variation:</b></p>	<p><del>15.1 The general rule is that everybody must leave your home when your tenancy ends. If you or other members of your household fail to do so, we can evict you by taking court action and getting bailiffs to execute a possession warrant.</del></p> <p><del>15.2 Although that is the general rule, there are situations where people remain in occupation for some time after the tenancy has ended. This is particularly so in the case of court orders ending secure tenancies (see paragraph 14.11). As explained there, the judge may suspend eviction in some circumstances. If ex tenants remain in occupation of their home in this situation they are sometimes called tolerated trespassers.</del></p> <p><b>15.1 If part 14(C) applies (tenancies ending by us getting court order), your tenancy continues for as long as you remain in occupation.</b></p> <p><b>15.2 If your tenancy ends otherwise (notice to quit by either of us or surrender), everybody must leave your home immediately it ends. We may enforce our right to possession and evict anybody who does not do so by getting bailiffs to execute a possession warrant.</b></p> <p><b>15.3 In exceptional cases we may delay such enforcement action for a limited period of time. This may be in order to give remaining occupants an opportunity of completing a move elsewhere. Or it may be pending our decision whether or not to offer them a tenancy of that property.</b></p> <p><del>15.3 4</del> <b>Technically, people remaining in occupation after a tenancy has ended do not pay rent. But we are entitled to payment of the equivalent amount. Those payments are sometimes called charges for use and occupation or mesne profits. People who have to make those payments can apply for housing benefit just as they would if they had to pay rent.</b></p> <p><del>15.4 Once your tenancy has ended you lose your rights under this agreement. For example: we are no longer obliged to carry out repairs (although we may do so at our own discretion in order to keep our properties in good condition); as you no longer have a tenancy, you cannot pass it on to other people in any of the ways described in part 13; and even if you were a secure tenant immediately before your tenancy ended, you cannot buy your home or exchange homes with other tenants.</del></p>
<p><b>Variations:</b> (continue)</p>	<p><del>15.5 After your tenancy has ended, we may send you letters or similar circulars sent to other council properties as</del></p>

	<p><del>well. In so far as those letters or circulars suggest that the person getting them is a tenant, you should disregard that. In other words, such letters and circulars should not be taken to imply that your particular tenancy has been reinstated.</del></p>
<b>Effect:</b>	As with 14 (above) and 16 (below), reflects technical changes in the law – certain tenancies now only end at the conclusion of court processes.
<b>16. Handing your home back to us</b>	
<b>Variation:</b>	<p><del>16.1 The general rule is that you must hand your home back to us immediately your tenancy ends. Part 15 explains the exceptions to this. Remember that your home includes any garden area (see paragraph 1.8).</del></p> <p><b>16.1 At the end of your tenancy you must hand your home back to us in accordance with the following provisions of this part. Remember that your home includes any garden area (see paragraph 1.8).</b></p>
<b>Effect:</b>	As with 14 and 15 (above), reflects technical changes in the law – certain tenancies now only end at the conclusion of court processes.

If you would like this information in another language or format such as large print, braille or audio cassette please  
phone 0344 980 3333 or email [info@norwich.gov.uk](mailto:info@norwich.gov.uk)

## Appendix 2 – Issues raised during consultation

We received 91 responses to this consultation exercise. 29% of these gave approval to the proposed changes and 4% disapproved. 43% sought clarification on what the effect of the changes meant to them and 70% took the opportunity to raise personal issues with their tenancy, property or neighbourhood.

We received some very positive responses from tenants who are pleased that we are focussing on tackling poor garden conditions and improving neighbourhoods. The comments made suggest that our ability to enforce these conditions and take action where necessary is your primary concern.

The three most common responses were in relation to the succession rights (paragraph **14.8**) the gas and electricity appliance maintenance and the maintenance of the smoke alarms (both paragraph **8.7**). In view of this we have adjusted some wording and provided further explanation. We hope this has made the situation clearer.

The 4% who disapproved of these variations made these comments:

- Part **10** was petty, bureaucratic and unnecessary.
- A third floor resident was unhappy about changes to Paragraph **9.1** and the potential obligations to clean communal areas on floors leading up to their home. They also commented that rent should be reduced to account for this responsibility.
- The Council needs to do more to enforce tenancy agreements and should be given more powers to evict non compliant tenants.
- There is too much consultation and not enough action.

Some of the other suggestions that were made included:

- There should be more specific measures to protect pensioners from antisocial behaviour
- More wardens and CCTV required
- More should be done to deal with drug users and dealers
- More enforcement of garden maintenance duty as well as external decoration
- Council should organise regular cleaning of common areas

These points will be given further consideration in future service reviews.