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## **DEMOTED TENANCIES**

### **1 SUMMARY**

- 1.1 Members are requested to consider using Demoted Tenancies for existing tenants of Council housing where it proves necessary.

### **2 INTRODUCTION**

- 2.1 The Anti-Social Behaviour Act 2003 made provision for the demotion of a secure tenancy on the ground of anti-social behaviour. The relevant provisions came into force on 30<sup>th</sup> June 2004.
- 2.2 A Court Order needs to be applied for to demote a tenancy and the Court can only make the order if
- The tenant or another resident or visitor has behaved in a way which would cause nuisance or annoyance or
  - if such a person used the premises for illegal purposes and the Court is satisfied it is reasonable to make the Order.
- 2.3 A demoted tenant would have less security of tenure for 12 months. The demotion would be removed after this period unless a notice of proceedings has already been served. If this happened, the demotion can be extended for a further six months.

### **3 DETAILED CONSIDERATION**

#### **3.1 A Demotion Order**

The Council can apply to the County Court to allow a secure tenancy to be brought to an end by a Demotion Order. Upon granting of the order the tenancy is replaced with a less secure form of tenancy.

- 3.2 If granted this means that the tenant cannot:
- Assign their tenancy
  - Apply for the Right to Buy (the demoted period will not count towards the qualifying period for eligibility or discount)
  - Apply for a mutual exchange
  - Sub-let or take in lodgers.
- 3.3 The landlord can apply for a stand-alone Demotion Order or court rules allow landlords to apply for a Demotion Order at the same time as a possession order. This allows the Court to consider the evidence brought forward by the

landlord in order to seek possession or demotion and to decide upon which option would present the best solution.

- 3.4 The period of demotion will initially be for 12 months but may be extended if the landlord serves notice to seek possession of the property during the demotion period.

#### **4 ENDING A DEMOTED TENANCY**

- 4.1 Whilst demotion provides a landlord with an opportunity in which to continue to work with tenants to stop anti-social behaviour, inevitably there will be cases where the behaviour persists. Where it does so, the tenant should be made fully aware of the consequences.
- 4.2 The landlord's reasons for applying to regain possession are not restricted to further occurrences of anti-social behaviour or other illegal activity. A key aim of the demotion is to give discretion to the landlord and they may include other matters relating to the conduct of the tenancy e.g. rent arrears when applying to court for possession.
- 4.3 The Council must make an order of the court for possession of the property and the court will automatically make the order unless it thinks that the procedure required has not been followed. This is a much faster process than for a secure tenant.

#### **5 BENEFITS FOR ROCHFORD**

- 5.1 There are a number of current existing tenancies where Demotion Orders may prove useful. Currently warning letters are sent and evidence collected and we now have one tenant whose child has received an Anti-Social Behaviour Order but, to date, the behaviour has not abated. Housing Management staff are working closely with the Anti-Social Behaviour team and Police to regularise this matter.
- 5.2 Currently the Council must apply to the Magistrates Court where a possession order is sought on the grounds of anti-social behaviour, which is a time consuming process, and to date has proved unsuccessful for other authorities on this particular ground. A Demotion Order through the County Court would be a quicker process and more likely to be successful.
- 5.3 The Demotion Order gives a serious warning to the tenant, since if they continue to misbehave, swift action can be taken to end their tenancy. Also, the removal of a number of their rights will act as a positive incentive to the tenant to change their behaviour. If they stop causing problems, they can regain a higher level of security and rights.

- 5.4 It is intended that emphasis will be placed on working with the tenants to change their behaviour and keep their homes rather than bring proceedings against them to evict.

**6 RISK IMPLICATIONS**

- 6.1 The Council needs to show that it will not tolerate anti-social behaviour and the adoption of Demoted Tenancies will send a clear message to those who behave in this way, causing misery and distress to their neighbours. Staff will require training to ensure they are fully conversant with the legal position.

**7 CRIME AND DISORDER IMPLICATIONS**

- 7.1 Demoted Tenancies can become part of the overall strategy in reducing crime and disorder particularly in respect of anti-social behaviour.

**8 RESOURCE IMPLICATIONS**

- 8.1 Revised literature will need to be produced but this will be done in-house with limited additional expenditure. In addition, further training and development for staff covering this area will need to be introduced. This can be met from the existing central budget allocation for such training.

**9 LEGAL IMPLICATIONS**

- 9.1 New proceedings and notices will need to be produced in conjunction with the Head of Legal Services.

**10 RECOMMENDATION**

- 10.1 It is proposed that the Committee **RESOLVES**

To include within his general delegation, authority for the Head of Revenue and Housing Management to seek Demotion Orders in appropriate cases.

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Head of Revenue & Housing Management

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**Background Papers: -**

Demoted & Introductory Tenancies - LJM Consultancy 14<sup>th</sup> October 2004

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