



Report to Policy Committee

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Report of: *Ajman Ali, Executive Director Operational Services Portfolio*

Report to: *Housing Policy Committee*

Date of Decision: *10 November 2022*

Subject: *Introductory Tenancies*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? 1216				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

Purpose of Report:

This Report seeks approval to elect to operate an Introductory Tenancies regime for all new council tenants. The Report will outline the statutory framework under which the council may choose to operate Introductory Tenancies, and the rationale for taking this course of action.

Recommendations:

It is recommended that the Housing Policy Committee: -

1. To approve the adoption and operation of an Introductory Tenancies regime (ITR), the key consequence of which would be that all new council tenants would be on a **non-secure** tenancy for the initial probationary period (12 to 18 months). The aim will be to implement this change on or after 01/04/2023.

Background Papers:

None

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Helen Damon, Tina Sharp (27.07.2022)</i>
		Legal: <i>Stephen Tonge (04.08.2022)</i>
		Equalities & Consultation: <i>Louise Nunn (03.08.2022)</i>
		Climate: <i>Jessica Rick (27.07.2022)</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	<i>Ajman Ali</i>
3	Committee Chair consulted:	<i>Douglas Johnson</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Janet Sharpe</i>	Job Title: <i>Director of Housing</i>
	Date: <i>27/10/2022</i>	

1. PROPOSAL

(Explain the proposal, current position and need for change, including any evidence considered, and indicate whether this is something the Council is legally required to do, or whether it is something it is choosing to do)

- 1.1 This proposal is for the council to implement an Introductory Tenancies regime (ITR) for all new tenants. Introductory Tenancies function much like a probationary period. Seeking eviction is intended to be simpler as courts are required to order possession of the property when the tenancy has been breached in the introductory period, in all but exceptional circumstances.
- 1.2 Electing to operate an ITR is a strategic decision but one which is optional, not a legal requirement. However, Introductory Tenancies are currently used by the majority of other Core Cities, authorities in South Yorkshire, as well as Registered Providers in the city. Endorsing this proposal would, therefore, bring the council into line with peer organisations.
- 1.3 Currently, the council does not have a probationary ITR, and all new tenants are immediately granted secure tenancies. The background of the Housing Act 1996 legislation granting this power to councils was to make it simpler to deal with problematic tenants, primarily focused on anti-social behaviour. While research has shown that possession proceedings are primarily due to rent arrears and anti-social behaviour (ASB), the policy does not fetter the council's ability to seek possession to any specific grounds.
- 1.4 An Introductory Tenancy is a temporary or probationary tenancy that initially lasts twelve months. The tenancy is non-secure, meaning the tenant has fewer rights (such as the Right to Buy, Right to Sublet) during this probationary period. The council may extend introductory tenancies up to six months or take action to evict a tenant if they break the conditions of their tenancy, for example through instances of ASB or rent arrears. Otherwise, tenants automatically become secure when the probationary period ends. The ITR would apply to all new tenancies other than transferring secure or assured tenants. Existing secure tenants are not impacted.
- 1.5 The process for taking enforcement action through the courts system is intended to be more streamlined if the tenant is non-secure rather than secure, making this process less onerous, less time consuming, and more certain to result in successful possession. The reason for this is that courts must order possession if the correct procedures have been followed although for legal reasons the council may also be required to prove that the eviction is a proportionate action to achieve a legitimate aim (which is a lower threshold than seeking possession for most secure tenancy breaches). This policy would, therefore, aim to assist SCC in taking action to seek possession of a tenancy where rules have been

broken in a fair and consistent fashion, by utilising legislation designed for this purpose.

- 1.6 Further, it is thought that a tenant's awareness of being in a probationary period will have positive consequences for behaviour and willingness to engage with SCC support. This behaviour in the first year of a tenancy is seen as something that will have a positive impact in forming responsible habits for the life of that tenancy, something that will reduce tenancy failure and resource-ask for management in the medium to long term.
- 1.7 Finally, it is believed that introducing this new tool would be a positive response to persistent tenant concerns and frustrations with what is perceived as a failure to deal with problem behaviours in communities and neighbourhoods. This policy change would both signal SCC's intent, as well as providing beneficial additional options in managing tenancies.
- 1.8 The process for assessing the resources and staffing required to initiate and then continue to administer an Introductory Tenancies regime has been completed to an initial indicative level. There will be additional work required to review the progress of tenancies within the first twelve months, though it is possible that this will be offset by reduced tenancy management issues in the medium to long term. It is anticipated that existing levels of resource will be sufficient to deliver this change. This, however, remains an assumption – a full resource and cost plan will be produced after the decision is made on implementation. Further, the resource ask will be assessed in practice during the first twelve months following implementation to give a more accurate picture as this cannot at this time be gained from other local authorities. Additionally, this change would necessitate a review and update of the existing Tenancy Strategy (2013) to reflect a move towards Introductory Tenancies. This change would be initiated if the decision is made to implement an ITR.
- 1.9 There is, therefore, a need for this change to allow SCC to manage tenancies in the most effective way possible in a climate of increasing resource pressure coupled with rising tenant need. Adopting an ITR is expected to free up resources by streamlining the legal pathway to seek possession, reduce the risk of accruing rent arrears during this process, and assist SCC in responding to customer feedback to deal with serious breaches of tenancy in a fair and consistent way.
- 1.10 It should also be noted that an enquiry has been made to central government, relating to whether there were any plans or proposals currently being worked on that would remove councils' power to elect to operate an ITR. It was confirmed in response dated 8th September 2022 that there are no current plans for this change from central government.

2. HOW DOES THIS DECISION CONTRIBUTE ?

- 2.1 The contribution of this decision is primarily to communities and neighbourhoods, and ensuring that everyone has high quality, safe homes, in neighbourhoods that are clean, green, safe and thriving.
- 2.2 Most of our tenants comply with their tenancy agreement and expect other people to do so as well. Our tenants want us to act where there have been breaches in a fair and proportionate manner to ensure their neighbourhoods are safe and thriving. In the small number of cases per year where action to evict a tenant is required, having Introductory Tenancies in place should make this process simpler, thereby saving SCC time and resources that could be better directed elsewhere. This will contribute positively to customer experience, by better aligning our approach with customer expectations.
- 2.3 Introductory Tenancies have, therefore, been identified as a tool to help in achieving better customer outcomes by:
- Emphasising the value of the asset to the tenant, thereby encouraging responsible occupancy.
 - Making it easy for tenants to understand SCC's response to tenancy breaches by setting out clear and consistently enforced consequences.
 - Making it simpler for SCC to take possession of the asset where tenancies have been breached, as a last resort.
- 2.4 The changes in tenancy management provided by Introductory Tenancies will be particularly valuable in cases where individuals chose to, for example, not pay their rent despite having the ability to do so. It is intended that possession proceedings can be initiated and resolved in a shorter timeframe, limiting SCC exposure to rent arrears thereby better directing resources to funding critical services.
- 2.5 Additionally, in cases where individuals are unwilling to engage with SCC support to sustain a failing tenancy, the swifter process for seeking possession would allow the council to move that individual to a more suitable tenancy earlier on in the process. This would support better customer outcomes by proactively solving problems for customers, rather than allowing problems to go on over a longer than necessary period.
- 2.6 Feedback previously collected from other Local Authorities along with predicted data on Introductory Tenancies in Sheffield, however, indicate that evictions will not significantly increase. Based on 2018/19 data it is predicted that 97% of tenants on Introductory Tenancies would automatically progress to secure tenancies after 12 months.

How will tenants be supported?

2.7

- 2.7.1 All the support that SCC currently offers would still be available to tenants in the first year of their tenancy.
- 2.7.2 A key improvement is the upcoming introduction of a new Floating Support Service. The service will have the capacity to provide higher levels of support to around four hundred tenants per year that are identified as in need. This higher support will be in place for twelve months, meaning that during the whole of the probationary tenancy period those identified as needing extra help can have it available. It is predicted that this will complement an adoption of Introductory Tenancies, as the period of higher support being in place will support tenants to avoid unnecessary tenancy failure in the probationary period. Further, being automatically placed on a probationary tenancy may help to encourage our tenants to actively engage with and accept the support that is being offered, increasing the effectiveness of that support.
- 2.7.3 Likewise, the introduction of the Housing First model means that individuals with the most complex needs are housed in an environment where these needs can be met in an appropriate way. This is being expanded from thirty to fifty units, allowing more individuals to benefit from this service in the future. While this cannot be provided to all our tenants, we are continuing to work with partners to provide tailored options that are right for individuals, such as additional Rough Sleeper Move On accommodation available.
- 2.7.4 Further avenues for identifying need and organising support are provided by the Rehousing Panel (RACM). This is now in place to determine what wrap around support a high-need individual should have. Crucially, this focuses on other and specialist services, for example where mental health provision is needed, to ensure tenants receive the support they need outside of housing itself.
- 2.7.5 This will be complemented by the work undertaken through the Changing Futures programme. A cohort of around sixty to eighty individuals with complex needs has been identified, and the provision of effective and tailored wrap-around support explored. It is important to be considered, therefore, that support for tenants exists in a wider system, and we are actively seeking to work with our partners to make sure these systems function in the best possible way for our most vulnerable tenants.
- 2.7.6 Finally, our whole tenant cohort is also supported through the Housing Plus model, with a named Neighbourhood Officer responsible for each tenancy. How this works is currently under review, with a view to tailoring the support provided to those who need it most. The adoption of an Introductory Tenancies regime would complement this change, as neighbourhood officers would be able to factor in ensuring that tenants were assisted through their probationary period. Monitoring the cohort of tenants as they progress through the first twelve-month probationary period will allow all the avenues of support listed above to be effectively

targeted towards tenants to ensure they do not fail in their tenancy unnecessarily.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 Although there is no statutory duty requiring the Council to consult tenants and/or wider community on the decision to operate an ITR, the DoE Circular 2/97 recommended that existing secure tenants be consulted because *“for most authorities it will form part of a wider strategy for dealing with anti-social behaviour by new and existing tenants alike and so information about the landlord’s intention will be germane to secure tenants.”*
- 3.2 Furthermore, as operating an ITR will be a change in Tenancy Strategy, and to ensure our customers’ voice is heard and at the heart of our decision making, a public consultation has been conducted in October 2022. The aim was to see whether our customers are supportive of this planned change, and whether it is generally seen as a fair and appropriate action by the council. The consultation survey received around 1000 responses.
- 3.3 The results of the consultation illustrate clear and broad public and tenant support for the implementation of an Introductory Tenancies regime. 1001 responses were submitted to the public survey. 86% of all survey respondents were in favour of making all new council tenancies probationary for the initial period, with the same proportion believing that this action is fair. Furthermore, 87% of respondents would be happy to agree to an Introductory Tenancy if they were a new council tenant.
- 3.4 The consultation also received high levels of engagement from respondents, with around half choosing to leave an optional comment to share their thoughts. By far the most popular theme to emerge from the comments related to accountability, responsibility, and the council’s response to anti-social behaviour (215 comments). Most comments with this theme agreed with adopting the policy, with anti-social behaviour from neighbours a clear topic. Some concerns were raised about fairness (60), just over half of these disagreed with adopting the policy. The final key theme was on support for tenants (40 comments), urging the council to ensure that proper support was given to help individuals sustain tenancies if this policy is adopted.
- 3.5 These figures are broadly consistent between individuals who identified themselves as existing SCC tenants and those who did not. The consultation indicates that the policy would, therefore, be responding to a strong tenant voice to adopt an Introductory Tenancy regime and would receive broad public support.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 Introductory Tenancies, if adopted, would apply to all new tenants equally. While tenants do have reduced rights during the introductory period, being a non-secure rather than secure tenant is only of significance if the terms of the tenancy agreement are breached. If this does not occur, the tenant is automatically converted to secure after the probationary period ends. The aim of the Introductory Tenancy regime is therefore to deal with tenants fairly based on the agreement made between tenant and SCC.
- 4.1.2 The most significant equalities risk is that adopting Introductory Tenancies would lead to an increase in evictions and homelessness for vulnerable groups. The mitigation for this comes in the form of support currently offered by SCC to vulnerable tenants – this would all still be available to new tenants.
- 4.1.3 Further, the decision to seek possession during the introductory period remains discretionary. Officer discretion will be applied to each case to determine whether ending the tenancy is the most appropriate option following consistent processes and procedures.
- 4.1.4 Finally, possession sought under Introductory Tenancies must be proportionate. SCC's decision can be challenged on these grounds, and therefore any possession action would need to be carefully considered to ensure it is a reasonable response in the situation.
- 4.1.5 To mitigate any equalities concerns, therefore, a robust policy and procedure should be in place to review any decision to seek possession of a property. This is to ensure that this decision is fair, consistent, and proportionate. This should reflect the policies and procedures already in place when considering eviction for existing and secure tenants.

4.2 Financial and Commercial Implications

- 4.2.1 Complications to assessing the financial implications come from the fact that the regime has been established for a long time in most other authorities. Previous research into the financial benefits of Introductory Tenancies from other authorities did not lead to any tangible savings figures, as these are not broken down by other authorities at this point.
- 4.2.2 However, in practice it has been found that possession of an Introductory Tenancy is most often sought in cases of rent arrears, with an expedited legal process cutting down on the amount of rent

arrears that accrue before possession is granted. This, therefore, is predicted to have a positive financial impact.

4.2.3

Additionally, time and staffing resources will be saved during this swifter legal process, although it is difficult to quantify this into an exact figure.

4.2.4

Likewise, financial benefits gained by seeking possession during the probationary period for instances of anti-social behaviour, rather than multiple attempts to resolve problems with secure tenants, could have a positive impact but a figure cannot be attributed to this currently.

4.2.5

The key focus should be on a choice of policy that improves service efficiency, fairness, and consistency, rather than the financial benefits which cannot be substantiated.

4.3 Legal Implications

4.3.1 The power to elect to operate Introductory Tenancies was provided under the Housing Act 1996 (HA 1996) for local housing authorities (LHAs) (and housing action trusts). The change would apply to all new tenants, but not those who are already a secure tenant.

4.3.2 The primary intention of the legislation was to make it easier to deal with “tenant conduct” tenancy management issues, such as anti-social behaviour, before tenants had security of tenure. The policy does not however prevent seeking possession for other tenancy compliance reasons.

4.3.3 There is no obligation for the council to operate an Introductory Tenancy regime, and, if adopted, the decision can be revoked at any time.

4.3.4 There is no requirement for the Council to consult its current tenants or its citizens before deciding whether to operate an ITR. If the Council elects to operate an ITR then the Director of Housing already has delegated powers to draw up and implement the necessary procedures to implement the ITR. A consultation, however, may be considered as part of council accepted practice and therefore be an expectation for a change of this type.

4.4 Climate Implications

4.4.1 This change is not foreseen to have significant Climate Implications.

4.4 Other Implications

(Refer to the decision making guidance and provide details of all relevant implications, e.g. human resources, property, public health).

- 4.4.1 There are no significant implications to note at this point other than referenced within this report.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The primary alternate option is 'do nothing' and opt not to implement an Introductory Tenancies regime. The decision to adopt is discretionary, meaning the Council is not required to do so. The Council has been operating without Introductory Tenancies since their introduction in legislation, and therefore this is considered a viable option. However, this option is not recommended, as it would deny the Council a useful tenancy management tool at a time when effective management of our housing stock is increasing in both difficulty and importance. Further, it would not be taking all possible steps to improve customer outcomes when there is strong tenant voice to have a fair and effective approach to dealing with violations of tenancy agreements, as demonstrated by the fact that a large majority of those consulted were in favour of this policy.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The recommendation of this paper is to adopt an Introductory Tenancies regime. It is vital that SCC take every action to effectively manage the increasingly scarce supply of social housing in the city. This policy allows us to do this better by allowing SCC to make use of streamlined legal pathways to seeking possession of a property where there have been serious breaches of the tenancy agreement – something other Local Authorities in core cities are making use of currently. Further, it would bring SCC in line with registered providers in the city and other South Yorkshire local authorities, meaning that Sheffield would no longer be making the necessary process of seeking possession of tenancies harder than it is for our peer organisations and operating a more generous regime. Finally, the consultation undertaken clearly illustrates the desire of the public and our tenants to implement a policy of this nature, reinforcing the notion that people are at the heart of what we do and that we listen to our customers in making decisions. Adopting this policy would signal to our tenants and other customers that we are committed to taking action, when necessary, in a fair, consistent and proportionate manner and is therefore the recommendation of this paper.