

HOUSING MANAGEMENT CONSULTATIVE COMMITTEE MEETING

Agenda Item 34

Brighton & Hove City Council

Subject:	Tenancy Visits
Date of Meeting:	27 September 2010
Report of:	Acting Director of Housing
Contact Officer:	Name: Helen Clarkmead, Business Improvement Manager
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Key Decision:	No
Wards Affected:	All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Regular visits to all tenants are an expectation of the Tenant Services Authority, and nationally accepted good practice in tenancy management. The Coroner has highlighted tenancy visits as a means of ensuring any welfare issues are picked up, especially for older and vulnerable people living alone. The need to do so was highlighted by the last Audit Commission inspection in 2005. Visits commenced in January 2009 with the aim of visiting every property within a 2 year period on an ongoing basis. Although most visits are by appointment, there are a significant number of people who have not been at home when officers call, and we have subsequently adjusted this target to one visit a minimum of every 3 years. Some local social landlords have a 5 year target, so ours is more challenging.
- 1.2 It is a tenancy condition that officers are permitted access with reasonable notice. Most tenancy checks are undertaken on a planned basis by appointment. Occasionally, and where there is reason to suspect tenancy fraud, visits will be made on an unnotified basis.

2. RECOMMENDATIONS:

- (1) HMCC is asked to note, and invited to comment upon the rationale and process for undertaking tenancy checks.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The purposes of tenancy checks are:
 - To ensure tenants are complying with tenancy conditions and identify and support or welfare needs

- To ensure the property is occupied by the legitimate tenant(s)
 - To inspect the condition of the property and identify any work that tenants or the council needs to do.
- 3.2 Tenancy visits identify where expected standards around keeping the property and any outside area in a reasonable condition are not being met. Tenancy checks often identify unmet support needs - officers are then able to refer to the appropriate agency, for example Adult Social Care to arrange domestic or personal care. As part of the council's financial inclusion strategy, tenancy checks are used to help ensure people are receiving any financial assistance to which they are entitled. Officers also discuss transfers, employment and training opportunities and encourage people to become involved in community participation.
- 3.3 It is an expectation of the Tenant Services Authority, Audit Commission and the council's internal auditors that the council has adequate processes in place to prevent, detect, and resolve tenancy fraud. The demand for affordable housing in Brighton and Hove by far exceeds the supply, and it is vital that council properties are occupied by the legitimate tenants. Asking for identification at tenancy visits is an important part of the council's tenancy fraud procedure.
- 3.4 In response to a complaint from a tenant relating to the procedures being adopted for tenancy visits, Audit & Business Risk investigated the complaint. They have concluded that they are satisfied in the way in which tenants are identified and prioritised for tenancy checks is fair and does not unjustly discriminate against any specific group or individual.
- 3.5 Tenants are required to seek written permission and allow post completion inspection of work they undertake to their homes. Unfortunately, a small number of tenants do not do this, and undertake potentially dangerous work – for example removing a wall to create an open plan reception/kitchen space. Inspecting the interior of a property identifies where this is the case, and enables appropriate remedial action to be agreed at minimal cost to the council.
- 3.6 Tenants are required to keep the interior and any exterior part of their home in good condition. Tenancy visits identify where homes and gardens are not being adequately maintained to an acceptable standard, and agreements can be made to rectify the situation.
- 3.7 Tenancy visits are undertaken by trained tenancy management staff. Community Wardens, Housing Management Advisors and Housing Officers all do tenancy visits as part of their job. In order to meet the challenging target of visiting each tenant every two years, all tenancy management staff are involved in the process. Where complex or sensitive issues exist, a more senior member of staff or a clerk of works will visit.
- 3.8 Planned visits take place after the tenant receives written notification. Please see attached standard letter. The council officer uses the attached checklist at the visit. Tenants are invited to contact the officer and arrange an alternative appointment if the time suggested is unsuitable.

- 3.9 Allowing officers access is a tenancy condition, and where this is persistently refused, enforcement action may be necessary.
- 3.10 Officers are aware that they are asking for personal information, and are expected to be sensitive when doing so. All information tenants provide is dealt with under the terms of the Data Protection Act 1998. We ask for information about health, mobility, disability, other equalities issues, and income in order to assess any support needs and help check if people are receiving all the benefits to which they are entitled. We also ask this to make sure that we are providing services in a fair and customer focussed way.
- 3.11 Tenants should have no reason to feel the tenancy visit was carried out insensitively. However if they have any concerns, they should please contact the relevant Housing Manager.

4. CONSULTATION

- 4.1 HMCC comments are invited.
- 4.2 The Tenancy Management Focus Group broadly welcomed this initiative and made some suggestions about the list of documents acceptable as proof of identity and asked that documents providing financial details be removed. This will be done.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications from the recommendations within this report. The cost of tenancy visits are met within the existing Housing Revenue Account Budget.

Finance Officer consulted: Susie Allen, Principal Accountant 21 July 2010

5.2 Legal Implications:

It is a condition of the Council's secure tenancy agreement that tenants will allow officers admission to their homes upon reasonable notice. The Unfair Terms in Consumer Contracts Regulations 1999 require that tenancy agreements should not contain unfair terms. The Office of Fair Trading advises that a condition allowing the landlord to enter premises without giving reasonable notice is likely to be unfair. Against that background it is considered that the council's condition is fair. In exercising the right of entry, the Council must act reasonably and in a manner that is compatible with the European Convention on Human Rights (ECHR). Article 8 of the Convention provides that everyone has the right to respect for his private and family life and his home. There can be no interference with that right by a public authority with the exercise of that right, except such as in accordance with the law and is necessary in the interest of public safety, and for the protection of the rights and freedoms of others. Paragraph 3.1 of the report provides sufficient justification for the exercise of the power of entry. If entry is persistently refused, enforcement action may follow. That could take the form of an application for an injunction or even possession proceedings following service of a notice of seeking possession. Again, regard must be

had to the ECHR. The policy set out represents an appropriate balance between the requirements set down by statutory authorities; the needs of the Council as a landlord and the rights of the tenant. It is proportionate and reasonable.

Lawyer Consulted: Simon Court

Date: 13th September 2010

Equalities Implications:

- 5.3 Tenancy visits promote financial inclusion and identify vulnerable tenants who may benefit from support. Where it is known that the tenants have difficulty reading English, appointments are made by telephone. Where tenants do not speak English, the council provides an interpreter. Advance notice of most tenancy checks enables tenants to be accompanied by a support worker, relative or friend.

Sustainability Implications:

- 5.4 Officers are able to provide energy efficiency advice at tenancy visits.

Crime & Disorder Implications:

- 5.5 Tenancy visits are an important tool in the identification of tenancy fraud.

Risk & Opportunity Management Implications:

- 5.6 Tenancy visits help ensure council homes are occupied by the legitimate tenants and ensure the council makes best use of its housing stock.

Corporate / Citywide Implications:

- 5.7 Robust corporate governance arrangements are essential to the sound management of the City Council and the achievement of its objectives as set out in the Corporate Plan.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None