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**DEMOTED TENANCY AGREEMENTS FOR COUNCIL TENANTS**

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**Responsible Cabinet Member(s) - Councillor Bill Dixon,  
Community and Public Protection Portfolio**

**Responsible Director(s) - Cliff Brown, Director of Community Services**

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**Purpose of Report**

1. The purpose of this report is to seek authority to use the new powers now available under the terms of the Anti-Social Behaviour and Nuisance Act 2003 to enable the Council to apply to the Courts for an order to reduce the security of tenure for Council tenants to a Demoted Order in appropriate cases.

**Information and Analysis**

2. At present all Council tenants have either a secure tenancy agreement, or if it their first tenancy with either the Council or another Registered Social Landlord they have an introductory tenancy. The Anti Social Behaviour Act 2003 allows Council's to apply to the Court to reduce the security of the existing tenancy to be demoted.
3. The Court may only make the Order if it is satisfied that the tenant, another resident or a visitor to the tenants home has behaved or threatened to behave in a way which is capable of causing, nuisance or annoyance including using the premises for unlawful purposes.
4. The Demotion Order, which will last for an initial twelve-month period, but may be extended, gives a serious warning to the tenant, since if they continue to misbehave swift action can be taken to end their tenancy. It also removes a number of their tenancy rights enjoyed under a secure tenancy, including the right to buy their home and the right to exchange their home with another tenant. The Order acts as a positive incentive to tenants to change behaviour as if they stop causing problems, they can regain a higher level of security and rights. There are likely to be two circumstances where as a landlord we would seek a Demotion Order: -
  - (a) **As a stand-alone remedy** - Landlords may choose to seek a stand-alone Demotion Order where there has been anti-social behaviour but we do not wish to evict outright. For example where we are concerned that if not checked the anti-social behaviour may escalate. There may have been a gradual increase in the frequency or seriousness of the behaviour or changes may have occurred in the circumstances of the tenant that have led to the incidents. For example, someone new may have come to live with them, or the problems are caused by a mental illness and the person is now seeking treatment, or the problems are caused by a child and the parent is now attending parenting classes.

- (b) **As an alternative to seeking a Possession Order** - 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 Council in order to seek possession or demotion and decide on the best solution. Where a Possession Order is not granted but the Court decides a Demotion Order is applicable this provides the tenant with a serious warning that should their behaviour continue they run the risk of losing their home.
5. If the tenant's behaviour does not improve sufficiently, and the Council wants to end the tenancy we must serve Notice of Possession Proceedings. The tenant has a right to an internal review and the notice must inform the tenant of where they can seek help or advice about what to do.

### **Outcome of Consultation**

6. Part 11, Sections 13 and 14 of the Anti Social Behaviour Act 2003 which came into effect in April 2005 gave local authorities automatic right to implement Demoted Tenancies and there is no legal requirement to consult formally with tenants. However, tenants have consistently supported the Council in taking firm action to address anti-social behaviour and stronger tenancy enforcement was a top priority during the extensive consultation period ending in April 2005 as part of the Stock Option Appraisal. This report has been considered by the Social Affairs and Health Scrutiny Committee on 30 August and was also discussed at the Tenants Board meeting on 21 September 2005. The Tenants Board voted unanimously to accept the report and members of Social Affairs and Health Scrutiny Committee were supportive of the use of Demoted Tenancies.

### **Legal Implications**

7. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

8. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is considered that demoted tenancies will be a useful tool in addressing issues of nuisance and anti-social behaviour.

### **Council Policy Framework**

8. The issue contained within this report represents a change to Council Policy.

### **Decision Deadline**

9. For the purpose of the 'call-in' procedure this does not represent an urgent matter.



## **Recommendation**

10. It is recommended that Cabinet agree to the use of demoted tenancy orders.

## **Reason**

11. To enable continued effective management of nuisance and anti-social behaviour within Council tenancies.

**Cliff Brown**  
**Director of Community Services**

## **Background Papers**

(i) Anti Social Behaviour Act 2003

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JW