

Report to the Cabinet

Report reference: C-068-2014/15

Date of meeting: 9 March 2015



**Epping Forest
District Council**

Portfolio: Housing – Councillor David Stallan

Subject: Tenancy Policy

Responsible Officer: Roger Wilson (01992 564419).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That the Cabinet accepts the recommendations of the Housing Scrutiny Panel in its report at Appendix 1 and adopts the revised Tenancy Policy;**
- (2) That, following consultation with the Tenants and Leaseholders Federation, partner agencies, Parish and Town Councils and partner Registered Providers, the Cabinet notes the comments received and agrees the officer responses set out at Appendix 2; and**
- (3) That the revised Tenancy Policy becomes effective on the same target date for the revised Housing Allocations Scheme coming into force, being 1 July 2015.**

Executive Summary:

The Cabinet is being asked by the Housing Scrutiny Panel to accept its recommendations set out in the attached report at Appendix 1 and adopt the Council's revised Tenancy Policy. A consultation exercise has been undertaken on the Tenancy Policy. The table attached as Appendix 2 to the report sets out the comments received and the responses of officers.

Reasons for Proposed Decision:

To ask the Cabinet to accept the recommendations of the Housing Scrutiny Panel and adopt the new Tenancy Policy.

Other Options for Action:

To not agree the recommendations of the Housing Scrutiny Panel.

To make alternative changes to the draft Tenancy Policy.

Report:

1. The Cabinet is being asked by the Housing Scrutiny Panel to accept its recommendations set out in the attached report at Appendix 1 and adopt the Council's revised Tenancy Policy. A consultation exercise has been undertaken with the Tenants and Leaseholders Federation, partner agencies, Parish and Town Councils and partner Registered

Providers, on the Tenancy Policy. The table attached as Appendix 2 to the report sets out the comments received and officer responses.

2. It is suggested that the revised Tenancy Policy becomes effective on the same target date for the revised Housing Allocations Scheme coming into force, being 1 July 2015.

Consultation on the Tenancy Policy

3. A consultation exercise has been undertaken on the Tenancy Policy in conjunction with the Housing Allocations Scheme and has now been completed. Five responses were received. The table attached as Appendix 2 to the report sets out the comments received and the officer response.

Resource Implications:

None.

Legal and Governance Implications:

Housing Act 1985

Localism Act 2011

Homes and Communities Agency's Regulatory Framework for Social Housing in England

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

As set out in the report.

Background Papers:

None.

Risk Management:

Having a Tenancy Policy removes the risk of not complying with both the Localism Act 2011 and the Homes and Communities Agency's Regulatory Framework for Social Housing in England.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The Housing Scrutiny Panel undertakes an annual review of the Protected Characteristics of home seekers on the Housing Register, compared with the Protected Characteristics of those allocated accommodation.

The reason for the review is to identify whether or not there are any indications to suggest the Council may be discriminating against any one ethnic group and is undertaken by the Panel, in consultation with the Tenants and Leaseholder's Federation.

In 2013/2014, the Housing Scrutiny Panel in consultation with the Tenants and Leaseholders Federation, monitored the Protected Characteristics of home seekers on the Housing Register who were granted Flexible (fixed-term) Tenancies, again to identify whether or not there are any indications to suggest the Council may be discriminating against any one group. No concerns were raised.

If the draft revised Tenancy Policy is agreed by the Cabinet, as Flexible (fixed-term) Tenancies will be granted on generally all properties, this ensures that all groups will be treated fairly and equally.

An Equality and Diversity Impact Assessment has been completed and no concerns were raised by the Assessment on the draft revised Tenancy Policy. The Equality Impact Assessment is available on request.

Appendix 2

Consultation Response to the Draft Tenancy Policy

Organisation	Consultation Response	Comments/Suggested Changes
The Tenants and Leaseholders Federation	The Tenants and Leaseholders Federation agree with the Housing Scrutiny Panel's recommendations	None
Loughton Town Council	<p>Members are unhappy about the proposed financial aspect of the Assessment Criteria which will be applied at the end of the fixed term to determine whether a further tenancy will be granted. They feel it is too low for those existing Flexible (fixed-term) Tenants whose situation may have improved during their tenancy.</p> <p>Noting that Secure Tenancies encouraged the building of strong local communities, Members were unable to support Section 7.2 on page 10 as it could lead to uncertainty. (This Section refers to Introductory potentially Secure Flexible Tenancies ("fixed term tenancies") being granted to all home seekers who sign-up to a tenancy of any property apart from sheltered housing accommodation or grouped dwelling schemes).</p>	<p>The proposed reduced threshold is higher than 2 other neighbouring Councils and the same as one other neighbouring Council. It meets with the requirements of the draft Housing Allocations Scheme set out elsewhere on the Agenda. It is suggested that no changes are made to the proposed threshold.</p> <p>. It is suggested that Flexible (fixed-term) Tenancies are extended to include <u>all</u> Council properties, except sheltered accommodation and grouped dwelling schemes in accordance with the initial views of the Housing Portfolio Holder and Cabinet colleagues, and the Housing Scrutiny Panel. This will enable under-occupation in 2 bedroom properties to be tackled and assist in dealing with management problems in all property types.</p>

Appendix 2

Consultation Response to the Draft Tenancy Policy (continued)

Organisation	Consultation Response	Comments/Suggested Changes
<p>Ongar Town Council</p>	<p>Paragraph 3.10 “Assessment Criteria – Decision on re-granting a Flexible (fixed-term) Tenancy”</p> <p>When listing the reasons why a further tenancy will generally not be granted, bullet point 2 of Paragraph 3.8 of the current Policy has been omitted from the draft policy which was as follows:</p> <p>“Where the tenant has been subject to an Anti-Social Behaviour Order or an Anti-Social behaviour Contract, or any similar penalty introduced under future legislation”.</p> <p>Why is this?</p>	<p>This bullet point was omitted due to such Orders and Contracts no longer being in force due to new provisions being introduced under the Anti-Social Behaviour Crime and Policing Act 2014.</p> <p>The first bullet point is clear that a further tenancy will not be granted where the tenant (or a member of their household) who, during the Flexible (fixed-term) Tenancy term has been guilty of serious unacceptable behaviour that would give sufficient grounds to issue possession proceedings if they were a Secure or Flexible (fixed-term) Tenant and includes rent arrears (including housing benefit and Court cost arrears), and other breaches of tenancy Conditions.</p> <p>As breaches of Tenancy Conditions cover all types of anti-social behaviour and other offences, it is suggested that no changes are made.</p>

	<p>Assessment Criteria Decision on re-granting a Flexible (fixed-term) Tenancy Paragraph 3.10 Bullet point 5. Why is there no indication of the financial thresholds specified?</p> <p>Paragraph 3.11 It would be helpful to include a definition of “care leaver”</p> <p>Paragraphs 7.2 and 7.3 What is the thinking of stating 9 years? What happens at the end of 10 years</p>	<p>Under this bullet point it states that if, in accordance with the Council’s Housing Allocations Scheme (in force on the date the 6 months’ Notice is served), the Flexible (fixed-term) Tenant, in the opinion of the Council, has sufficient income and/or assets to enable them to meet their housing need themselves, a further tenancy will not be granted.</p> <p>It is suggested that no changes be made. This clause ensures that any financial limit applied under the Housing Allocations Scheme in the future will apply to the Assessment Criteria.</p> <p>It is suggested that no definition is included as it would not be possible to have a list that covered every eventuality</p> <p>These paragraphs make it clear that Flexible (fixed-term) Tenancies are granted for a term of 9 years but when taking into account the Introductory Tenancy term of 12 months this makes the full term 10 years. If the Introductory period is extended by a further 6 months, then the fixed-term will be 8 ½ years making a full term of again 10 years. It is suggested this is clear and no changes should be made. The Assessment Criteria at Paragraph 3.10 explains what happens at the end of the term.</p>
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	<p>Paragraph 11.1 Tackling Social Housing Fraud. Further details could be provided to make tenants more aware of the different aspects of Housing Fraud investigated especially sub-letting and Right to Buy</p>	<p>Sub-letting is already referred to, but, it is suggested that the different types of fraud are listed in bullet point form in this paragraph</p>
<p>North Weald Bassett Parish Council</p>	<p>The Parish Council supports the proposed changes to the Tenancy Policy</p>	<p>None</p>
<p>Moat Housing</p>	<p>Was an Equality Impact Assessment undertaken, and if so, should it be mentioned in the Policy</p>	<p>A full Equality Impact Assessment was undertaken. It is suggested that this be confirmed at Paragraph 15 of the Tenancy Policy.</p>