

# **Report to Housing Scrutiny Standing Panel**

**Date of meeting: 17 December 2012**

**Subject: Tenancy Policy**

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**Committee Secretary: Mark Jenkins (01992 56 4607)**

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## **Recommendations/Decisions Required:**

**That the Housing Scrutiny Panel considers the attached draft Tenancy Policy prior to consultation with the Tenants and Leaseholders Federation, Registered Social Landlords operating in the District, Local Councils and partner agencies with an interest in the policy and submits a report to the Cabinet recommending the adoption of the Tenancy Policy, subject to the views expressed through the Consultation Exercise.**

## **Report:**

1. Under the Localism Act 2011, housing providers have been granted additional powers which will enable decisions to be taken locally about the management of social housing. The Government is enabling providers of social housing with the option to use flexible tenancies (also known as fixed term tenancies), which in most cases must be for a minimum period of 5 years or between 2 & 5 years in exceptional circumstances. Flexible tenants will generally enjoy the same rights as secure tenants, including the Right to Buy subject to the current qualifying criteria, although they will lose a couple of statutory rights.

2. On expiry of the fixed-term, the tenant will be assessed against an agreed Assessment Criteria to determine whether a further tenancy (Flexible or Secure) will be granted, either of the same or another Council property. If another tenancy is not offered, there is a requirement to provide the tenant with advice and assistance. It should be noted that sheltered housing tenants must continue to be granted secure tenancies in accordance with the Act.

3. The Localism Act 2011 requires local authorities to publish a Tenancy Strategy which, within 12 months of commencement of the Act (being January 2013), must set out the matters to which Registered Providers (including the Council) are to have regard in formulating their policies relating to:

- The kinds of tenancies they grant;
- The circumstances in which they will grant a tenancy of a particular kind;
- Where they grant tenancies for a term certain, the lengths of those terms; and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

4. The West Essex Housing Forum, which comprises three local authorities in West Essex being Epping Forest, Harlow and Uttlesford District Councils, have developed and adopted one Tenancy Strategy that covers the three local authority's areas in West Essex. The Strategy was adopted by the Cabinet on 22 October 2012.

5. In addition, all Registered Providers are required to publish and be responsible for their own individual Tenancy Policy which sets out:

- The kinds of tenancies granted
- Circumstances where a tenancy of a particular type will be granted and the length of the term
- Circumstances where a term of less than 5 years will be granted
- Circumstances where another tenancy will be granted on expiry on the same or another property
- How applicants/tenants can appeal against the length of the Flexible Tenancy or the decision not to grant a further tenancy
- Taking account of the needs of vulnerable people
- Provision of Advice and Assistant if another tenancy is not granted at the end of the term
- Discretionary succession rights

6. A draft Tenancy Policy for the Council is attached to the agenda. The Housing Scrutiny Panel is asked to give detailed consideration of the draft Tenancy Policy.

7. Under the Localism Act 2011, (as with the two other authorities, both of whom have retained their housing stock) the Council as a Registered Provider is expected to have regard to the West Essex Tenancy Strategy in formulating and implementing its Tenancy Policy. The Council's draft Tenancy Policy fully complies with the requirements of the West Essex Tenancy Strategy.

8. In an effort to prevent any unnecessary work, and to give officers direction for the purposes of drafting the attached Tenancy Policy, the Housing Portfolio Holder had informal discussions with Cabinet Members about the way forward on Tenure Reform. The Housing Portfolio Holder's initial views on the general approach to be taken is as follows:

- That the Council introduces a Pilot Scheme for Flexible Tenancies as soon as possible, with Flexible Tenancies being granted to all new tenants who sign-up to a tenancy of a property of three bedrooms or more for a fixed term of 9 years
- As the Council's current Introductory Tenancy Scheme for all new secure tenants has proved successful, Flexible Tenancies will include in their term an introductory period of 12 months (or 18 months where the term is extended due to minor breaches of Tenancy conditions)
- As the Localism Act removes the "Right to Improve" for Flexible Tenants, but gives councils powers to continue to grant this right if it wishes, it is considered that this right should be granted, through the Tenancy Agreement, but that the other right removed - the "Right to Compensation for Improvements" not be granted under the Pilot Scheme, but that this be considered again after the 12 month review referred to later
- That the financial incentives under the Housing Allocations Scheme for Council tenants to transfer to smaller accommodation applies to Flexible Tenants during the term, but only within the first 5 years (including the Introductory Tenancy period)
- That, at this stage of consideration, the draft Assessment Criteria used at the end of the Flexible Tenancy term to assess eligibility for a further flexible or secure tenancy of the same or another property, includes that a further tenancy will not be granted if the tenant has committed serious acts of Anti-Social Behaviour, or other serious breaches of tenancy conditions including significant rent arrears. Furthermore, if the tenant is under-occupying or statutorily overcrowded at the accommodation, then a further Flexible or Secure Tenancy as appropriate will be offered on alternative suitable accommodation, provided all of the other requirements of the agreed Assessment Criteria are met

- If the property has been extensively adapted and there is no one in occupation who is in need of these adaptations, and there is an applicant on the Housing Register who is in need of the adapted accommodation, then a further Flexible or Secure Tenancy (as appropriate) of an alternative suitable property be offered provided all of the other requirements of the agreed Assessment Criteria are met
- That at the end of the Flexible Tenancy term, where there are special circumstances including, active Foster Carers or where a tenant or member of their household has a terminal illness or a disability, a further Flexible Tenancy term of between 2 years and (in certain circumstances) 10-years be granted, in order for the special circumstances to be monitored and re-assessed

9. The Housing Portfolio Holder has already agreed that the Housing Scrutiny Panel be asked to review the success of the Pilot Scheme after 12 months of commencement and to submit a report to the Cabinet on its review to consider, in particular:

(a) Whether to discontinue, continue or extend the scheme to include 2 bedroom properties;

(b) Whether to allow existing and future Flexible Tenants the “Right to Compensation for Improvements” in the future; and

(c) Whether in future to means test tenants as part of the Assessment Criteria at the end of the Flexible Tenancy period.