

Housing Service Strategy On Under-Occupation

1 Introduction

- 1.1 This Housing Directorate Service Strategy relates to the Council's approach to minimising under-occupation within its housing stock. Given the existing demand for Council accommodation, as demonstrated by the numbers on the Housing Register, it is essential that the Council does all that it can to maximise the use of its housing stock. This Strategy sets out how this element of the service is delivered by the Housing Directorate, including links with other services both internally and externally.
- 1.2 Comprehensive systems are in place and are detailed later in the Strategy. The efficiency of these systems are confirmed by the Housing Directorate being accredited with both the international quality standard of ISO 9001:2008 and the Customer Service Excellence award, for all of its services.
- 1.3 This Housing Directorate Service Strategy has been formulated in consultation with representatives of the Tenants and Leaseholders Federation, and includes information contained in the Housing Directorate's policies and procedures. The Strategy was considered by the Housing Scrutiny Panel and approved by the Housing Portfolio Holder in March 2013.

2 Background to the Service

- 2.1 Minimising the under-occupation of the Council's housing stock is generally both the responsibility of the Housing Allocations Team within the Housing Options Section and Housing Management. The Housing Allocations Team within the Housing Options Section of the Housing Directorate ensures that all offers of accommodation are in accordance with the applicant's housing need. The Council's Housing Allocations Scheme, encourages people to move to a smaller property by providing both generous financial incentives and highest Band priority to those who wish to downsize.
- 2.2 Housing Management staff deal with all matters relating to succession and assignment of tenancies. This includes enforcing the provisions of the Housing Act 1985, and doing as much as the legislation permits to encourage people to move to smaller accommodation when they are under-occupying a property.
- 2.3 Council properties can become under-occupied during the course of the tenancy as family compositions change. The Housing Directorate, in accordance with this Strategy, will make every effort to discourage under occupation in these circumstances.

3 Coverage

- 3.1 This Housing Service Strategy covers the Council's approach to reducing under-occupation and in particular;
 - a) The role of the Council's Under-occupation Officer
 - b) The various incentives under the Council's Housing Allocations Scheme to encourage under occupying tenants to transfer to smaller accommodation

- c) Measures within the Tenancy Policy to prevent under occupation
- d) Actions taken in accordance with the Housing Directorate's Welfare Reform Mitigation Action Plan
- e) Encouraging successor tenants (family members but not spouses nor civil partners) to downsize even when they have a right to remain in accordance with legislation.
- f) The Council's policy in respect of family members who succeed to a post Localism Act 2011 tenancy.
- g) Ensuring that, in accordance with legislation, under occupation of more than one bedroom does not take place as a result of any mutual exchange.
- h) Promoting the HomeSwapper mutual exchange scheme.
- i) Ensuring that all allocations are either in accordance with the Housing Allocations Scheme, including being one bedroom below the applicants need.

4 Relationship to Other Documents

- 4.1 Summary Information on under occupation is contained within the Council's main Housing Strategy.
- 4.2 The Housing Allocations Scheme sets out all of the Council's incentives to encourage under occupying tenants to move to smaller accommodation.
- 4.3 The Tenancy Policy sets out the Council's policy on granting Flexible (fixed term) Tenancies on properties of three bedrooms or more in order to tackle under occupation
- 4.4 The Welfare Mitigation Action Plan sets out the actions taken to ensure advice and assistance is given to all tenants who are under occupying accommodation and may have their housing benefit reduced as a result
- 4.5 The law relating to succession is set out in the Council's Tenancy Agreements.
- 4.6 The legislation and the Council's policy on succession to a secure tenancy is explained within the Tenants Handbook.
- 4.7 The Housing Directorate has individual leaflets available for the public giving advice on mutual exchanges, the Allocations Scheme and succession.
- 4.8 Information is also published periodically in "Housing News" and on the Council's website, www.eppingforestdc.gov.uk/housing.
- 4.9 The Housing Charter sets out the Housing Directorate's commitment to the public.

5 Statutory Requirements

- 5.1 The relevant statutory requirements relating to tackling under-occupation within the Council's housing stock is as follows:
 - (a) Allocations: Localism Act 2011, the Allocation of accommodation: guidance for local authorities in England (DCLG June 2012), Housing Act 1996 Section 167 (as amended by the Homelessness Act 2002), the Housing Act 1996 (additional Preference for Armed Forces) (England) Regulations 2012.
 - (b) Succession and assignment: Housing Act 1985 Part IV Sections 87 – 89.
 - (c) Assignments by way of Mutual Exchange: Housing Act 1985 Part IV Section 92.

- (d) Tenancy Policy: Localism Act 2011 and the Homes and Communities Agency's Regulatory Framework for Social Housing in England.
- (e) Welfare Reforms Act 2011
- (f) Data Protection Act 1998,
- (g) Race Relations Act 1976.

6 Client Consultation, Information and Involvement

- 6.1 Any changes in policy are considered by the Tenants and Leaseholders Federation, prior to any decision being taken by the Housing Portfolio Holder or the Cabinet. Furthermore, the Housing Portfolio Holder attends all meetings of the Federation and can therefore take their views into account.
- 6.2 Publicity and general information is provided within the Council's publication "Housing News" which ensures that as many tenants are involved as possible. This is delivered to all Council dwellings and, when appropriate, all homeseekers and is available on the Council's website www.eppingforestdc.gov.uk/housing.
- 6.3 Tenants who are directly involved with issues relating to under-occupation are kept fully advised of their entitlements and are given the maximum possible information to allow them to make choices.
- 6.4 The Housing Directorate has identified tenants who are under-occupying Council accommodation. Those who are under-occupying have been visited by their Housing Management Officer and notified in writing of the housing benefit implications of under occupying accommodation and the various incentives available when downsizing.

7 General Principles

- 7.1 As much as possible will be done, within the legislation, to encourage people to move when they are under-occupying a Council property. This is seen as a clear benefit to the Council and to those on its Housing Register.

The Role of the Council's Under-Occupation Officer

- 7.2 The Council will be appointing to the new post of Under-Occupation Officer around March 2013. The main duties of the role is as follows:
 - To seek to identify all Council tenants who are under-occupying accommodation
 - To promote and publicise the benefits of downsizing accommodation to all tenants who are under-occupying accommodation including the detrimental implications of under-occupation (for those claiming benefits) under the Welfare Reform Act 2011 and various incentives for downsizing accommodation under the Council's Housing Allocations Scheme
 - To provide advice to under-occupying tenants on the Council's Housing Register, about suitable properties that may become available, in consultation with the Housing Options Section
 - To be responsible for the administration of the Under-occupation Financial Incentive Scheme, in liaison with the Housing Options Section

- To work with the Housing Repairs Service to arrange for additional work to be undertaken to smaller difficult-to-let properties which may encourage a tenant to downsize
- To undertake accompanied viewings of properties with tenants who are considering downsizing in appropriate circumstances
- To further promote the scheme through letters to tenants, leaflets, presentations, press articles, "Housing News", "The Forester" and the "In-House" staff magazine
- To undertake all necessary administration relating to the reduction of under-occupation, including setting up and maintaining office systems.
- To undertake in-depth housing assessments as and when necessary.
- To work with older/vulnerable tenants who decide to downsize, providing every practical assistance to enable them to transfer to a smaller property including:
 - arranging removal services, by setting up links with reputable firms and ensuring good value for the tenant;
 - Providing advice and assistance with the purchase, installation and removal of fixtures, fittings, carpets, curtains, furniture etc;
 - Providing advice on costs and access to any funding opportunities;
 - Liaising with utility services to arrange connection and re-connection of all services;
 - Arranging the re-direction of post, and notification of new address to family, friends, interested organisations and other third parties;
 - Notifying all relevant agencies including Adult Social Care, GP etc arranging access to any required support services;
 - Assisting at tenancy sign-up where necessary; and
 - Undertaking tenant satisfaction surveys following the completion of moves.

Proposed Incentives to Downsize Under the Revised draft Housing Allocations Scheme

7.3 The Council is currently consulting on its revised draft Housing Allocations Scheme which has been considered by the Housing Scrutiny Panel and will be submitted to Cabinet in April 2013. If agreed, the new Scheme will come into force in July 2013 and will include all of the following measures to tackle under occupation within the Council's housing stock:

Band One Priority

7.4 Homeseekers with Council or Housing Association tenancies within the District who are wanting to move to accommodation with fewer bedrooms than the property they currently occupy on a permanent basis will continue to be placed in Band One of the Council's Housing Allocations Scheme, being the highest priority band.

Incentive Payments

- 7.5 Where a tenant of the Council moves to any property with less bedrooms than their current property and both are owned by the Council, they will continue to be offered £500 to cover removal costs plus £500 for each bedroom “released”, subject to the tenant having a housing need for the downsized property, and a maximum payment of £2,000 being made.
- 7.6 The above financial incentives for Council tenants to transfer to smaller accommodation will also apply to Flexible Tenants during the fixed term, but only within the first 7 years of the fixed term (inclusive of the Introductory Tenancy period).

Bungalow Accommodation

- 7.7 Where a tenant of the Council is downsizing accommodation, they will be considered for a bungalow if they wish, normally allocated to persons over 60 years of age, but provided they are over 50 years of age.

Penalty for Refusals of Accommodation

- 7.8 Any homeseeker who refuses two offers of suitable accommodation for which they have expressed an interest within any three-month period will have their application deferred for a period of six months. However, this will not apply to an existing tenant of the Council who is under-occupying and is wishing to move to smaller Council accommodation.

Allocation of Accommodation

- 7.9 In order to avoid the potential housing benefit implications of under-occupation to homeseekers, the sizes of properties allocated to homeseekers on the Housing Register will be based upon the composition of their household, generally in accordance with the property sizes under the Local Housing Allowance. In addition, homeseekers will be able to bid for properties which are one bedroom less than their need provided it is within the Permitted Number of occupants allowed under the Housing Act 1985.

Tenancy Policy

Flexible Tenancies

- 7.10 Flexible (fixed term) Tenancies will be granted for a fixed term of 10 years to all homeseekers who sign-up to a tenancy of a property comprising three or more bedrooms. This will assist the Council in tackling the problem of under-occupation in the future, and remove the potential for tenants of working age on Housing Benefit to pay a proportion of their rent due to under-occupation.
- 7.11 At the commencement of each Flexible Tenancy, the tenant will be informed of the Assessment Criteria that will be applied to determine, at the end of the flexible term, if a further tenancy will be granted. At least 6 months prior to the ending of the fixed-term the Council will provide Notice in writing to the tenant stating that it either proposes to grant a further tenancy (Flexible or Secure – of the same or another property) on the expiry of the existing fixed term or that it intends to end the tenancy. Prior to serving the Notice, the Tenant will be assessed against the Assessment Criteria. The general presumption will be that a further tenancy is granted. However, a further tenancy (Flexible or Secure) will generally not be granted where the tenant is under-occupying the accommodation (when taking into account people required to live with the tenant i.e. family members and not lodgers etc), then a further Flexible or Secure Tenancy (as appropriate) will be offered on a suitable smaller property, provided all of the other requirements of the Assessment Criteria are met.

- 7.12 Where there are special circumstances including, where the tenant is an active Foster Carer, the Council's Medical Advisor confirms that the tenant or member of their household has a terminal illness or a long-term disability, the tenant is a care leaver who is still in need of support, there are dependent vulnerable children, a further Flexible Tenancy term of between 2 years and (in certain circumstances) 10 years may be granted. This is in order for the special circumstances (and any subsequent under-occupation) to be monitored and re-assessed at a later date.

Succession

Pre-Localism Act Tenancies

- 7.13 The Council's policy encourages successor tenants, other than spouses or civil partners, to move to smaller accommodation if they are under occupying. Under the legislation (for all pre-Localism Act tenants), in the case of a family member, if the accommodation afforded by the property is more extensive than is reasonably required by the tenant then the Council can serve a Notice of Seeking Possession more than six months but less than twelve months after becoming aware of the tenant's death. In these circumstances, the Council's under-occupation policy relating to successor tenants applies which is based upon (Pre Localism Act 2011) law, and is as follows:

(a) That under-occupying successor tenants be encouraged to move to smaller accommodation;

(b) That where only one bedroom is unoccupied, successor tenants be allowed to remain if:

- (i) they have resided in the property for more than 10 years prior to the date of the former tenant's death; or
- (ii) they provided significant financial or other support to the previous tenant; or
- (iii) they are over 60 years of age; and

- 7.14 Should the successor tenant be under-occupying, then usually one offer of suitable alternative accommodation is made, and the successor tenant will usually be required to move. If the successor tenant refuses to move, then the Council would take Court action to seek possession under Ground 16 of the Act.

Post Localism Act Tenancies

- 7.15 Under the new Localism Act 2011, the right of succession to family members has been repealed for all new post-Act secure tenants. However, under the Localism Act succession rights can be granted to family members if an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy.

- 7.16 The Cabinet agreed that qualifying family members will be granted the right to succeed but in these circumstances the following policy will apply:

(a) The length of time qualifying family members have to have lived at the property prior to the tenant's death will be extended from the current statutory period of 1 year to 3 years.

(b) That for all post Localism Act tenants, the Council's Under-Occupation Policy will not apply to all family members who qualify to succeed and who are under-occupying. They therefore, will be required, generally in all circumstances, to move to smaller accommodation.

Welfare Reform Mitigation Action Plan

- 7.17 In view of the significant effect that the welfare reforms will have on the Council and residents, a Welfare Reform Mitigation Project Team has been formed, chaired by the Director of Housing and comprising officers from across the Housing Directorate and the Benefits Division, to consider and implement ways that the effects of the welfare reforms can be minimised or at least reduced.
- 7.18 The Project Team has formulated a Welfare Reform Mitigation Action Plan, which identifies around 60 separate actions under seven Key Themes to ensure that a strategic and corporate approach is taken to mitigate the expected significant effect the reforms will have on Council tenants.
- 7.19 One of the Key Themes is reducing under-occupation. The objective of this Theme, is to minimise the under-occupation of Council properties by working-age Council tenants in receipt of housing benefit, and to endeavor to assist under-occupying Council tenants to move to smaller accommodation if they wish, the actions within this Theme are as follows:
- Improve the quality of information held about all the occupants of Council properties, in order to improve tenant profiling and identify potential current and future under-occupation
 - Minimise the number of Council tenants who under-occupy their Council property
 - Identify Council and Housing Association tenants assessed as being affected by the “bedroom tax”
 - Advise and discuss with Council tenants the options available to them in response to the “bedroom tax”
 - Ensure that new Council and Housing Association tenants are offered properties that meet the bedroom requirements of the Local Housing Allowance, to ensure that no “bedroom tax” arises on initial letting
 - Encourage under-occupying working age council tenants to move to smaller accommodation
 - Assess the number of one and two bedroom properties required for current and future under-occupying tenants who wish to downsize
 - Seek to ensure an adequate provision of one and two bedroom properties within new affordable housing developments

Mutual Exchanges

- 7.20 The Council offers “HomeSwapper”; an internet based mutual exchange service, free of charge to assist qualifying tenants who are wanting to enter into a mutual exchange. This will assist tenants in moving to more suitable sized accommodation more easily. Any tenant who does not have access to the Internet will be provided with support on request.

8. Future Developments

8.1 The following “SWOT” analysis identifies the strengths, weaknesses, opportunities and threats for the areas covered by the Service Strategy.

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|--|---|
| <p>Strengths</p> <ul style="list-style-type: none">• New Under-Occupation Officer• Welfare Reforms Mitigation Action Plan• Customer Service Excellence and ISO 9001:2008 accreditation• Incentives under the Housing Allocations Scheme• HomeOption Choice Based Lettings Scheme• Actions under the Tenancy Policy• Tenants and Leaseholder Federation• Residents’ Associations• Established work instructions• HomeSwapper Mutual Exchange Scheme | <p>Weaknesses</p> <ul style="list-style-type: none">• Limited supply of suitable accommodation to create choice for tenants to move to smaller accommodation |
| <p>Opportunities</p> <ul style="list-style-type: none">• Review of the current Housing Allocations Scheme with increased provisions to encourage the Council’s tenants to downsize• Appointment of the new Under-Occupation Officer• Promoting the benefits of downsizing accommodation to Council tenants | <p>Threats</p> <ul style="list-style-type: none">• Increased demand from homeless applicants for accommodation |

9. Action Plan

9.1 The following specific actions are planned by the Council in order to tackle under occupation;

| Action | Lead Officer | Timescale | Resource Implications |
|---|--|----------------|---------------------------|
| Appointment of the new Housing Under Occupation Officer | Housing Manager (Older Peoples Services) | April 2013 | Within existing resources |
| Review of the Housing Allocations Scheme | Assistant Director of Housing (Operations) | April 2013 | Within existing resources |
| Promote and publicise to Council tenants who are under-occupying, the benefits of downsizing accommodation | Housing Under-Occupation Officer | September 2013 | Within existing resources |
| Undertaking additional works to smaller difficult-to-let Council accommodation | Housing Under-Occupation Officer/Housing Repairs Service | On-going | Within existing resources |
| Provision of assistance to older and vulnerable people with transferring to smaller accommodation | Housing Under-Occupation Officer | On-going | Within existing resources |
| Completion of relevant actions under the Welfare Reforms Mitigation Action Plan (Key Theme – Reducing Under-Occupation) | Housing Under-Occupation Officer | December 2013 | Within existing resources |

| Action | Lead Officer | Timescale | Resource Implications |
|---|----------------------------------|------------------|------------------------------|
| Following the review of the Housing Allocations Scheme, write to tenants who are under-occupying accommodation notifying them of the incentives available to tenants who move to smaller accommodation. | Housing Under-Occupation Officer | September 2013 | Within existing resources |
| To monitor the increased incentives encouraging tenants who are under-occupying to move to smaller Council accommodation to measure their effectiveness. | Housing Under-Occupation Officer | April 2014 | Within existing resources |

10. Resourcing the Strategy

10.1 The current budget for incentives to encourage tenants move to smaller accommodation is £12,000.

11. Reviewing the Strategy

11.1 This Housing Services Strategy will be reviewed in consultation with representatives of the Epping Forest Tenants and Leaseholders Federation no later than March 2016.