

Report to Housing Scrutiny Panel

Date of meeting: 21 October 2014

Portfolio: Housing – Councillor D. Stallan

Subject: Review of the Tenancy Policy

**Officer contact for further information:
Alan Hall ext 4419**

Committee Secretary: Mark Jenkins ext 4607



Recommendations/Decisions Required:

- 1. That, as part of its Work Programme, the Housing Scrutiny Panel carries out a 12 month Review of the Council's Tenancy Policy and considers the suggested amendments to the Policy set out in the report;**
- 2. That following the agreed amendments being incorporated, a consultation exercise be undertaken with the Tenants and Leaseholders Federation, Registered Social Landlords operating in the District, Local Councils and partner agencies with an interest in the policy;**
- 3. Following the consultation exercise, the Housing Scrutiny Panel submits a report on the amendments to the Cabinet for consideration; and**
- 4. That the revised Tenancy Policy comes into force on the same date as the revised Housing Allocations Scheme.**

Report:

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

2. On expiry of the fixed-term, the tenant is assessed against an agreed Assessment Criteria to determine whether a further tenancy (Flexible or Secure) will be granted. 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 are only granted secure tenancies in accordance with the Act.

3. 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
- How the needs of vulnerable people will be taken into account
- Provision of advice and assistance if another tenancy is not granted at the end of the term
- Discretionary succession rights

4. The Council's current Tenancy Policy has been circulated separately from the Agenda.

5. At its meeting on 15 April 2013 (Minute 138 refers), the Cabinet adopted the current Tenancy Policy with effect from 1 September 2013. The Cabinet further agreed that the Housing Scrutiny Panel be asked to review the success of the Pilot Scheme to grant Flexible (fixed-term) Tenancies on all properties of 3 bedrooms or more, after 12 months of commencement, hence the need for this report. The Panel was asked to submit a report to the Cabinet on its review including, in particular;

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

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

Extending Flexible (fixed-term) Tenancies

6. The Housing Portfolio Holder has held informal discussions with Cabinet colleagues to inform his initial views on the major aspects of the 12 month review. He considered this essential, as it gives the Scrutiny Panel and officers direction on the general approach to be taken in reviewing both the Council's Housing Allocations Scheme and Tenancy Policy in an effort to prevent any unnecessary work and any recommendations being put forward to the Cabinet by the Scrutiny Panel that would not be supported.

7. As a result of these informal discussions, the Housing Portfolio Holder made a formal decision that, under the 12 month review of the Policy, Flexible (fixed-term) Tenancies continue and be for a fixed-term of ten years, and the Council's Tenancy Policy be amended with Flexible (fixed-term) Tenancies being extended to include all Council properties, except sheltered accommodation.

8. When considering his initial views, the Housing Portfolio Holder took into account the approach taken by 6 other Essex Authorities, which are set out in the table attached at Appendix 1.

9. If Flexible (fixed-term) Tenancies are extended to include all properties (excluding sheltered accommodation), this may discourage some tenants from transferring or downsizing accommodation as, in order to transfer, they would have to enter into a new Flexible (fixed-term) Tenancy and therefore no longer have a Secure (Lifetime) Tenancy. It is therefore suggested that, in addition to the protection already granted under legislation to Pre-Localism Act tenants whereby they are granted Secure (Lifetime) Tenancies for one move only when transferring, all existing Post-Act Secure (Lifetime) Tenants are also protected in the same way.

Means testing tenants as part of the Assessment Criteria

10. Under the Review of the Housing Allocations Scheme which is being considered elsewhere on the Agenda, officers are recommending that where any lead applicant/s whose gross annual household income including; residential property equity, savings, shares or other assets, exceeds £76,000 they will not qualify to join the Council's Housing Register regardless of the size of accommodation required.

11. Officers are recommending that for consistency, there be an additional requirement under the Assessment Criteria which determines whether at the end of the fixed-term if a further tenancy be granted. The additional requirement would be that a further tenancy (Flexible or Secure) will generally not be granted in the following circumstances:

“Where the tenant/s annual household income including; residential property equity, savings, shares or other assets, exceeds £76,000”.

12. It should be noted that the new requirement would only apply to new Flexible (fixed-term) Tenants who sign up after the new Tenancy Policy comes into force.

Reason for decision:

For the Housing Scrutiny Panel to Review the Council’s Tenancy Policy prior to submitting a report to the Cabinet.

Options considered and rejected:

That the Housing Scrutiny Panel does not consider the Review of the Council’s Tenancy Policy prior to its consideration by the Cabinet.

Consultation undertaken:

Following the meeting of the Panel, the Tenants and Leaseholders Federation, all Registered Social Landlords operating within the District, all Local Councils and partner agencies with an interest in the Policy will be consulted, prior to the Panel submitting a report to the Cabinet.

Resource implications:

Budget provision: Within existing resources

Personnel: None

Land: N/A

Community Plan/BVPP reference: N/A

Relevant statutory powers: Housing Act 1985, Localism Act 2011

Background papers: Housing Portfolio Holder report; Tenancy Policy

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A

Key Decision reference: (if required) Not a key decision