

TENANCY STRATEGY**1. INTRODUCTION**

- # 1.1 The Localism Act introduced a requirement for the Council to publish a tenancy strategy, which needs to be in place by January 2013.
- 1.2 This report sets out the background and information on the draft tenancy strategy, which is attached at Appendix One.

2. BACKGROUND

- 2.1 The Localism Act introduced significant reform of housing tenure in the public sector (full details of the reforms were set out in a paper to the Community Overview and Scrutiny Panel at the June 2012 meeting). Local authorities and housing associations were given wider powers to offer fixed term tenancies alongside the normal periodic tenancies which have been used in the public sector since 1980. Alongside the new fixed term tenancies, there has been reform to the rental charging system so that some tenancies can now be let on an 'affordable' rent, which is at a higher level than social rents.
- 2.2 The purposes of the reforms are to create greater flexibilities for social landlords when managing and allocating their housing stock and to provide funding (through higher rents) for new build.
- 2.3 In order for clarity and accountability on how and in what circumstances social landlords may offer different tenancy types, and the circumstances in which fixed term tenancies may be renewed, there is a new legal requirement for local authorities to publish a tenancy strategy. It is not possible for the Council to instigate a new fixed term tenancy regime until the strategy is in place.
- 2.4 It is a regulatory requirement for all registered providers of social housing (which includes the Council's landlord services and all housing associations operating in the District) to publish a tenancy policy. All providers must have regard to the strategy when formulating their tenancy policies.

3. THE DRAFT TENANCY STRATEGY

- 3.1 The draft tenancy strategy is attached at Appendix One and sets out a framework for social landlords when they are developing or reviewing their tenancy policies.
- 3.2 The key aspects of the strategy are that:
- the Council supports the use of fixed term tenancies, but not in all circumstances
 - the Council recommends that fixed term tenancy lengths should typically be five years as this provides an appropriate balance between security of tenure and the need to make best use of the available housing stock

- housing advice should be available for any tenants where their tenancy is not being renewed
- the Council considers that tenancy conduct should be considered as part of any assessment for a renewal of a fixed term tenancy

4. VIEWS OF COMMUNITY OVERVIEW AND SCRUTINY PANEL

4.1 The Panel considered the scheme at their meeting 16 September 2012 and agreed:

- (a) That the Cabinet be advised that the Panel commends the Tenancy Strategy, as set out in Appendix 1 to Report C to the Panel, for adoption; and
- (b) That the Panel review the Strategy in 12-18 months' time.

5. CONSULTATION

5.1 The Council is obligated to consult with registered providers in the District and a copy of the draft strategy has been sent to all providers. No comments have been received.

6. PORTFOLIO HOLDER COMMENTS

6.1 The tenancy strategy will meet the Council's legal obligations and sets out a statement which our partner landlords must take into consideration when devising their tenancy policies. I look forward to the Council being able to offer fixed term tenancies in the future as this will increase the turnover of affordable housing and help to meet housing need.

7. RECOMMENDATIONS

7.1 That Cabinet approves the adoption of the Tenancy Strategy.

For further information please contact:

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Background Papers:

APPENDIX ONE

New Forest District Council Tenancy Strategy

1. Introduction

1.1 The Council is required to publish a tenancy strategy. Social landlords with housing in the New Forest district must have regard to this strategy when they develop their own tenancy policies.

1.2 This strategy takes into account the Council's key corporate housing priorities:

- To provide affordable housing
- To reduce the number of families in temporary or inadequate housing

and will be revised in the light of future or updated housing and homelessness strategies.

2. Objectives of the tenancy strategy

2.1 New Forest District Council's Tenancy Strategy meets the Council's statutory obligation and sets out context and guidance for registered housing providers with accommodation in the district. The objectives of the strategy are to:

- **Make the best use of the limited housing stock for those that most need it** – the Council recognises that social housing supply will never keep pace with housing need in the New Forest and registered providers should make the best use of the available stock for those in the highest housing need by seeking to reduce under-occupation and by encouraging tenants to explore other housing options if they have the resources to do so
- **Protect and provide stability for elderly and vulnerable people** – the Council understands that some people will need the stability and certainty of long-term housing; tenancy policies should ensure stability for those that most need it
- **Be fair so that households that do not need assistance with their housing do not benefit from subsidised accommodation** – the Council considers that social housing should not necessarily be a lifelong tenure and those that can afford private sector accommodation should be encouraged to consider other housing options
- **Promote economic activity and reduce dependency** – the Council considers that tenancy and allocation policies should encourage work and reduce dependency

- **Assist in creating sustainable communities** – it is the Council’s view tenancy and allocation policies have a part to play in making communities sustainable by ensuring long-term accommodation is available to those who need it and enabling a mix of tenures and household types
- **Reduce levels of anti-social behaviour** – the use of appropriate tenancy types can assist in managing or reducing anti-social behaviour

3. Tenure

Types of tenancy

- 3.1 New Forest District Council supports the use by social landlords of **introductory or starter tenancies** for new tenants to ensure tenants fully understand their responsibilities and to facilitate a probationary period.
- 3.2 New Forest District Council supports the granting of **fixed term secure or assured shorthold tenancies** wherever appropriate to ensure the best use of the limited housing stock and to link tenancy renewal to being a responsible tenant.
- 3.3 Where temporary housing is being let to homeless households or to prevent homelessness or for supported housing projects, **licenses or non-secure tenancies** should be offered depending on the type of accommodation.
- 3.4 New Forest District Council supports the granting of **periodic secure or assured tenancies** where the tenant is or may be vulnerable or elderly and is unlikely to ever have the resources to be accommodated in the private sector.
- 3.5 New Forest District Council recommends that the following groups are normally offered the security of a lifetime tenancy:
 - Single people aged 65 and over or couples aged 65 and over who are offered accommodation appropriate to the size of their household
 - Single people or couples with significant learning disabilities
 - People with a particular and enduring condition or disability that requires the stability of lifetime accommodation
- 3.6 It is recognised that in most cases, tenants who entered into their tenancies prior to the commencement of the use of fixed term tenancies will retain their existing security of tenure even if transferring or exchanging tenancies.

Length of fixed term tenancies

- 3.7 Where a fixed term or assured shorthold tenancy is granted, the Council recommends that the tenancy length should normally be a period of 5 years after any probationary period has ended. It is considered that this period provides an appropriate balance between residents having stability and feeling settled in an area and the need to make the best use of stock.
- 3.8 Housing regulation states that fixed term tenancies shorter than 5 years should only be used in exceptional circumstances. New Forest District Council considers that the following list provides examples where exceptional circumstances apply and where a shorter fixed term tenancy may be appropriate:
- Where a tenant's housing need or bedroom requirement is expected to be limited to shorter than a 5 year period
 - Where an existing fixed term tenancy is coming to an end and where there is uncertainty over the tenant's circumstances in the near future
 - Where there is uncertainty over the tenant's ability to manage a tenancy satisfactorily or to engage with support services to ensure they manage their tenancy in a satisfactory manner
 - Where the tenant has a history of anti-social or other unacceptable behaviour and there is a risk that the unacceptable behaviour may continue

End of fixed term tenancies

- 3.9 New Forest District Council expects that registered providers will clearly communicate the likely terms of renewal for fixed term tenancies at the sign-up of the tenancy. Tenants should be given a clear understanding that tenancies are often renewed as this will help the tenant feel settled and able to contribute to their local community.
- 3.10 The Council considers that there should be a clear link between the expected behaviour of tenants and the prospect of tenancy renewal and this should be communicated at the sign-up of the tenancy.
- 3.11 Registered providers should manage the tenancy renewal assessment to ensure that there is time for proper consideration of all of the issues and to meet the requirements of possession proceedings of fixed term tenancies in case it is decided not to renew the tenancy.
- 3.12 The Council recommends that a proper renewal assessment will consist of:
- an assessment of the housing need and bedroom and other requirements of the household
 - an assessment of the income and resources available to the household
 - an assessment of the conduct of the tenancy

- consideration of any special circumstances (eg employment, schooling, welfare etc.)
- 3.13 The Council expects that tenancies will NOT normally be renewed in the following circumstances:
- Where households are under-occupying their home and there is a housing need for the property in which they are living
 - Where the household no longer has a housing need or has the resources to secure and maintain housing in the private sector
 - Where there are major adaptations in the home and the household no longer needs the use of the adaptations
 - Where there have been serious and / or persistent breaches of tenancy conditions
- 3.14 Where the provider decides that a tenancy will not be renewed they must advise the tenant of the reason for the decision and must provide advice and assistance to help the tenant consider alternative options.
- 3.15 Close liaison with the Council's Homesearch and Homelessness and Housing Advice teams will be required and the Homesearch team will be able to provide assistance with assessment of housing need and of the income and resources of the household and the general housing needs of the district.
- 3.16 Where a tenancy is not being renewed because of under-occupancy and the tenant is still in housing need and unable to resolve their own housing problem, then the provider should seek to offer appropriate re-housing or liaise with the Council to discuss re-housing through the Homesearch scheme.
- 3.17 Providers should consider a range of possible alternative options for households whose tenancies are not renewed, including, for example, consideration of low-cost home-ownership and affordable and full-market rentals.

Joint and sole tenancies

- 3.18 The Council considers that joint tenancies should only normally be granted to married couples or civil partners or to couples where there is satisfactory evidence that they have been living together for a period of at least one year.
- 3.19 Both parties to any joint tenancy should intend to occupy the property as their only or principal home and should not normally have an interest in a property elsewhere.
- 3.20 The Council considers that cross-generation joint tenancies (e.g parent and child) or joint tenancies where the applicants are not a couple should not normally be granted as this could compromise the availability of housing stock in the future. However, the Council recognises that, in exceptional

circumstances, joint tenancies may be granted to protect the occupation rights of vulnerable individuals.

- 3.21 Where an existing tenant requests a joint tenancy, the Council considers that the landlord should explain the full implications to the tenant in writing.
- 3.22 Where one or more existing joint tenants may be ending the joint tenancy due to relationship breakdown, then the Council considers that the landlord should not automatically offer the tenancy to any former-tenant still occupying the property. The level of occupation and tenancy conduct should be considered as part of any decision on the future of the tenancy. Guidance from the Homesearch and Homelessness and Housing Advice teams should be sought where appropriate.

Succession

- 3.23 The Council considers that where opportunities exist to re-house successor tenants into smaller properties, then transfers should normally take place. Consideration should, however, be given to the specific needs of the household as there may be reasons why a transfer is not suitable or possible.
- 3.24 The Council considers that tenancies should not normally be offered to occupants who are not entitled to succeed to the tenancy unless there are exceptional circumstances. Circumstances in particular cases are best judged by the housing needs team which is able to take an overview on the housing needs and options within the district. Where occupants are not entitled to succeed, then the occupant should be referred to the Council's Homesearch and Homelessness and Housing Advice teams for appropriate advice.

4. Rents

- 4.1 New Forest District Council recognises that providers will be charging affordable rents on new developments of properties and on a proportion of re-lets.
- 4.2 The Council considers that affordable rent levels should be set as low as possible without affecting the financial viability of schemes.
- 4.3 The Council does not support affordable rent schemes or conversions where rent levels charged would be above the local housing allowance levels.
- 4.4 Affordable rent should not reinforce benefit dependency and rent levels should reflect incomes that households in work could reasonably expect to sustain. Particular attention should be given to rent levels on larger family homes which may be unaffordable for working households at the 80% of market rent level.
- 4.5 Affordable rent tenancies should ideally be linked with support for non-working households to access training and employment. Existing social housing tenants moving to a tenancy let on affordable rent levels should be given

appropriate advice on their tenancy rights if they are moving to a tenancy of less security than their previous tenancy.

- 4.6 Properties converted to affordable rent levels should have features which will make the properties attractive to applicants on the Homeseach waiting list who are in work, including location, size and quality.
- 4.7 Conversions should, wherever possible, be evenly distributed among the existing social housing stock (ie there should be conversions in high and low value rental areas.) Registered providers should have transparent policies for identifying voids for conversion to affordable rent and should aim for a balanced portfolio of stock at social and affordable rents.

5. Social Housing Fraud

- 5.1 The Council will do all it can when allocating tenancies to ensure that potential housing fraud is identified prior to any tenancy being offered.
- 5.2 The Council expects that landlords will operate robust systems for identifying and tackling tenancy fraud. The Council recommends regular home visits are carried out to check on occupancy.

6. Equalities

- 6.1 Public sector duties under the Equality Act require public bodies to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between people with protected characteristics and those that do not.
- 6.2 The Council recommends undertaking equalities impact assessments when providers define or review their tenancy policies.