

**HOUSING AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL –
17th SEPTEMBER 2025**

Draft Housing Landlord Tenancy Policy and Mutual Exchange Policy

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| Purpose | For Review |
| Classification | Public |
| Executive Summary | <p>The draft Housing Landlord Tenancy Policy sets out NFDC’s approach to managing its housing tenancies in line with the Localism Act 2011, the Housing Act 1985, and the Regulator for Social Housing Consumer Standards.</p> <p>The draft policy supports the Council’s Housing Landlord Strategy 2025 – 2028. Aiming to ensure fair, consistent, and effective tenancy management that maximises the use of council housing for residents’ needs.</p> <p>The main change to the draft policy is the proposal to move away from flexible fixed term tenancies to secure tenancies after a 1-year introductory period, due to the high level of administration required compared with the benefits obtained.</p> <p>The draft Housing Landlord Mutual Exchange Policy outlines NFDC’s approach to facilitating home swaps between eligible social housing tenants moving within and out of the district. It ensures compliance with legal frameworks and aims to provide a fair and transparent mutual exchange process. It supports tenants in finding more suitable housing, addressing under/over-occupation and supports the efficient use of housing stock.</p> |
| Recommendation(s) | <p>That the panel:</p> <ol style="list-style-type: none">1. Consider the draft Housing Landlord Tenancy policy, including the end of fixed term tenancies and support the policy proceeding to Cabinet.2. Consider the draft Housing Landlord Mutual Exchange policy and support |

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| | the approval by the Portfolio holder for Housing and Homelessness. |
| Reasons for recommendation(s) | <p>The Housing Landlord Tenancy Policy and Housing Landlord Mutual Exchange Policy are overdue review and ensuring both policies meet tenant expectations and business needs where legislation allows.</p> <p>The report proposed the end of fixed term tenancies due to the resource requirements to implement them, the lack of significant benefits they provide, the limited use by our local and national landlords and feedback from regulatory inspections.</p> |
| Ward(s) | All |
| Portfolio Holder(s) | Councillor Steve Davies |
| Strategic Director(s) | Richard Knott – Housing & Communities |
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Introduction and background

1. The Localism Act and the Regulator for Social Housing, consumer standards require the Council to have a Tenancy Policy setting out the types of tenancies granted by the landlord function, circumstances when particular types of tenancy will be granted, length of time a tenancy will be granted for and how tenancies will be managed towards their end.
2. The Localism Act 2011 introduced a new tenancy type called a Flexible Fixed Term Tenancy (FFTT), which gave local authorities and housing associations the discretion to offer secure fixed-term tenancies (minimum term of two years) instead of traditional lifetime tenancies.

3. The key aims were to improve stock management by allowing providers to reassess tenants' needs over time. Ensure fair allocation of social housing to those in genuine need. Encourage movement and reduce under-occupation. Promote tenant responsibility and engagement with tenancy conditions.
4. Before the end of the fixed term, the landlord must conduct a formal review of a tenant's circumstances. This process usually starts at 12 months before expiry.
5. Factors considered in the review include the household's composition and income, property suitability (e.g. under-occupation or overcrowding), tenancy conduct (e.g. rent arrears, anti-social behaviour) and any changes in vulnerability or support needs. These checks are time consuming and involve a number of staff from different teams to complete e.g. allocations, tenancy management and tenancy sustainment.
6. Following the review, the landlord must decide to renew the tenancy for another fixed term, offer a different type of tenancy, such as a secure tenancy or end the tenancy, with appropriate advice and assistance to help the tenant find alternative accommodation.
7. If the landlord fails to notify the tenant of the outcome as least six months before the end of the term, the tenancy may default to a lifetime secure tenancy. A council's Tenancy Policy would include this detail should FFTTS be adopted.
8. Since April 2014 NFDC have been offering all qualifying new tenants a 1-year introductory tenancy followed by a 5-year FFTT. The redrafted Housing Landlord Tenancy Policy proposes that future new tenants will be offered 1-year introductory tenancies (where applicable) followed by lifetime secure tenancies rather than the current FFTTs.
9. In 2024/25, 96 FFTTs were issued and 167 were reviewed. For 25/26, to the end of July we have reviewed 71 tenancies and expect to review another 136 to the end of the financial year. NFDC have not yet terminated a tenancy through the FFTT review process as none have met the necessary criteria.
10. Nationally and locally, Councils are shifting away from FFTTs towards lifetime secure tenancies to offer tenants greater stability and security in their homes and to promote a stronger sense of community. Potential LGR partners, Winchester City Council do not offer FFTTs and Southampton City Council only offer them on the

rare occasion e.g. to facilitate short life use of properties in regeneration areas.

11. FFTTs are complex, time consuming and costly to administer and have not delivered the positive outcomes expected at the outset.
12. Tenants with FFTTs which began on or after 1st April 2012, often find it difficult to mutually exchange their home with another social housing tenant (as the incoming tenants would, in effect, give up a lifetime secure tenancy for a fixed term agreement). This limits social mobility.
13. Following a review of a tenant's FTTT should they meet a condition (such as under occupation) for ending their tenancy, it is unlikely that there will be suitable alternate accommodation available that would better meet their needs within a time frame to suit the termination process. The Council would be obligated to secure alternative accommodation.
14. The resource pressures on the Housing Landlord Service have increased significantly since the inception of FTTTs. Social Housing Regulation has added additional activities and workloads on housing staff and managers, as well as LGR, increased compliance, new and amended legislation, increased tenant engagement, damp and mould responses, increase from 250 to over 400 voids per year, and a whole new workstream in greener housing. For the Housing Options Team who assess housing need for each FTTT review homelessness and housing register pressures are now even more acute and the number of lettings they administer has increased significantly.
15. There will be legal costs involved in ending a flexible fixed term tenancy if the tenant does not leave the property at the end of the fixed term, as the Council would be required to recover possession of the property through the courts. There would also be costs involved in ensuring the empty properties are repaired and ready for re-let.
16. There are quite specific legal complications surrounding fixed term tenancies that were not clear at the time they were adopted. For example, a High Court case (Croydon LBC v Kalonga [2020]) considered the issue of how local authorities can obtain possession of a fixed term tenancy during the fixed term. In this case, Croydon LBC served a Notice of Seeking Possession on the tenant for breach of the tenancy agreement. The tenant argued that there was no right to determine the tenancy prior to the expiry of the fixed term because the tenancy agreement did not contain a forfeiture clause. The High Court dismissed the possession claim for this reason.

17. The courts have struggled to grasp flexible fixed term tenancies due to their complexity and as a result there is very limited case law to rely on in this area, and this adds to the burden of the work involved should it be necessary to proceed to court, and the likelihood of success.
18. Therefore, the FFTTs are both resource intensive to the Council and have a potentially negative impact on the health and well-being of tenants who may live under the stress of losing their home at the end of their fixed term. The likelihood of a possession being granted through the courts is complex and as yet untried, due to the increasingly fewer landlords who use them.
19. A copy of the proposed draft Housing Landlord Tenancy Policy is attached at **Appendix 1** setting out the types of tenancy this council proposes to offer new tenants in the future, how tenancy fraud will be tackled, how successions will be administered and how tenancies will be brought to an end. This new proposed policy no longer includes the use of FFTTs.

Mutual Exchange

20. The Housing Landlord Mutual Exchange policy has been separated from the Housing Landlord Tenancy Policy to provide tenants with a transparent mutual exchange process. It provides tenants with all the relevant information that they need to decide if a mutual exchange is right for them and the process on how to proceed.
21. The policy sets out NFDC's approach to mutual exchanges, enabling tenants to swap homes with others across the UK. It aims to promote mutual exchange as a housing solution, improve housing options and mobility, make better use of existing housing stock (e.g. tackling under-occupation) and support tenants needing to move for work, family, or health reasons.
22. Tenants with secure or FFTTs have the legal right to exchange, subject to landlord consent and specific legal grounds for refusal.
23. The process is tenant led with tenants find their own exchange partner. Once they have found an exchange partner they submit a mutual exchange application. NFDC carry out a property inspection and issue a report to the tenant on the condition of the property. The Council have 42 days to issue a decision on the mutual exchange.
24. Grounds for refusal are set out in schedule 14 of the Localism Act 2011 and include rent arrears, tenancy breaches, unsuitability of the property and ASB.

25. 41 mutual exchanges have taken place of the last 12 months.

Corporate plan priorities

26. The Housing Landlord Tenancy Policy and the Housing Landlord Mutual Exchange Policy support the Corporate Plan 2024/28 priorities:

People - Helping people in the greatest need and creating balanced, resilient, and healthy communities who feel safe and supported with easy access to services.

Priority 1: Helping those in our community with the greatest need.

Priority 2: Empowering our residents to live healthy, connected and fulfilling lives.

Options appraisal

27. Option 1 (recommended option) – Support the policies as proposed which means the end of Flexible Fixed Term Tenancies.

28. Option 2 – The Council continues with flexible fixed term tenancies, requiring the draft Housing Landlord Tenancy to be amended

Consultation undertaken

29. Consultation has taken place with a wide range of housing officers, including the tenant engagement team, in shaping both policies.

30. The draft policies have been presented to the Tenant Involvement Group on 5th August 2025, EMT on 12 August 2025 and Informal Cabinet on 3rd September 2025.

Financial and resource implications

31. Both the Housing Landlord Tenancy Policy and the Housing Landlord Mutual Exchange Policy will be delivered within existing resources in the Housing Revenue Account (HRA).

Legal implications

32. The Localism Act and the Regulator for Social Housing, consumer standards require the Council to have a Tenancy Policy setting out the types of tenancies granted in the district, circumstances when particular types of tenancy will be granted, length of time a tenancy will be granted for and how tenancies will be managed towards the end.

33. Details of the Mutual Exchange process could have been included in the Housing Landlord Tenancy Policy, but it was felt that having a separate policy allowed for better transparency and detail for the tenants.

Risk assessment

34. The delivery of both policies mitigates legal and financial risk to the Council, as well as aiming to reduce risks faced by tenants in relation to tenancy matters.
35. The work of officers is risk assessed in line with health and safety and lone working procedures.

Environmental / Climate and nature implications

36. Whilst the report has no direct implications, this may present opportunities to contribute to the Council climate change objectives through alternative working practices.

Equalities implications

37. The proposed draft policies will improve the Council's tenant's response to tenancy management. It is recognised that tenants will have unique needs and experiences and sets out clearly how the Council will manage tenancies. It also recognises that tenants wish to settle in a home for the long term and build community and support networks which improves health and wellbeing.
38. In addition, long term stability is supported through the ability to benefit from disabled facilities grants for the long term, without the uncertainty or need to move away from these adaptations.

Crime and disorder implications

39. There are no crime and disorder implications arising directly from this report.

Data protection/ Information governance/ ICT implications

40. The collection, retention and deletion of resident's data is governed by GDPR and associated guidance. All data is collected and maintained in line with the required legislation and shared in accordance with defined and established information sharing protocols and procedures

New Forest National Park/ Cranborne Chase National Landscape implications

41. The new approach to ensuring the housing service positively contributes to housing neighbourhoods may involve increased partnership working with the National Park Authority.

Conclusion

42. The draft Housing Landlord Tenancy policy sets out NFDC's approach to managing its housing tenancies, recommending a shift from flexible fixed term tenancies to lifetime secure tenancies to offer tenants greater stability and security in their homes and to promote a stronger sense of community.
43. The draft Housing Landlord Mutual Exchange policy outlines NFDC's approach to facilitating home swaps between eligible social housing tenants. It aims to provide a fair and transparent mutual exchange process.

Appendices:

List appendices here:-
Appendix 1 – Draft Housing Landlord Tenancy Policy
Appendix 2 – Draft Housing Landlord Mutual Exchange Policy

Background Papers:

None