

COMMUNITY AND SOCIAL AFFAIRS COMMITTEE

21 JANUARY 2015

REPORT OF HEAD OF COMMUNITIES & NEIGHBOURHOODS**TENANCY POLICY 2015-2020****1.0 PURPOSE OF REPORT**

1.1 This report seeks member's approval of the Tenancy Policy (2015-20).

2.0 RECOMMENDATIONS

2.1 Members note, comment and approve the refreshed Tenancy Policy (2015-2020)

3.0 KEY ISSUES**Background**

- 3.1 There is an acute need for more affordable housing in Melton, conservative estimates suggest we need 238 affordable homes every year, existing supply from re-lets leave us with a net need for 71 additional affordable homes every year (SHMA, 2014). There are currently over 550 households on the Council's Housing Register, almost half of which are families with children. To help meet the housing needs of as many households as possible, the council needs to increase the supply of affordable housing as well as ensure that it makes the best possible use of the existing affordable housing stock. Our tenancy policy can have an important role in achieving these aims.
- 3.2 Tenancy policies and tenancy strategies were introduced as part of a wider package of social housing reforms set out by the Government in *Local Decisions: a fairer future for social housing* and implemented through the Localism Act and changes to the regulatory standards that all social landlords are expected to meet.
- 3.3 The Localism Act places a duty on local authorities to produce a tenancy strategy, a strategic document that describes the high level objectives and local issues that individual social housing landlords should take into consideration when developing their tenancy policies. Our tenancy strategy was developed through extensive consultation, taking into account our homelessness strategy and allocations scheme. Our tenancy Strategy was adopted in June 2012. It was developed to help landlords make the best use of affordable housing stock having regards to the needs of vulnerable households.
- 3.4 Social housing landlords are required to produce a tenancy policy to describe the types of tenancies they will offer and in what circumstances. Their tenancy policy should have regard to the strategic tenancy strategy for the area or areas in which the landlord has housing. Melton Borough Council is the largest social housing landlord in Melton, it owns approximately three quarters of Melton's affordable housing stock. Our current tenancy policy was developed having regard to our tenancy strategy and was adopted in January 2013. The key policies within the 2013 tenancy policy are;

- Use of flexible 5 year tenancies for all general needs housing
- Introduction of flexible tenancies (as soon as practically possible) after April 2013
- Automatic renewal unless circumstances have significantly changed
- Secure tenancies for specialist and older persons housing
- Secure tenancies for all disabled households
- Use of affordable rent for new build programme to maximise investment opportunities and increase supply over long term

Summary of Proposed Changes to the Tenancy Policy

Guidance on the all the Tenancy Types Offered

3.5 We have taken the opportunity to refresh our tenancy policy as our new build council homes are being developed. The refreshed tenancy policy provides clearer guidance on what types of tenancies we will use and in what when circumstances, including introductory and secure tenancies in accordance with our regulatory duties. To summarise;

- Introductory tenancies will be offered to all new tenants
- Secure tenancies will continue to be granted to the majority of tenants who rent their home at a social rent
- Flexible tenancies will be granted to households who rent their home at an affordable rent, this will apply to some new homes we build or otherwise acquire.
- We reserve the right to use demoted tenancies to tackle antisocial behaviour
- Non-secure tenancies will be offered to people we house on a temporary basis, for example homeless households where we have a statutory duty.

Proposed changes in the use of Flexible Tenancies

3.6 Historically social housing tenants have been offered an assured or secure tenancy, which granted them a home for life. A household's need for housing was only assessed when they applied for a home even though over time their circumstances and need for housing could have changed. The Localism Act introduced flexible tenancies with the aim to offer people housing whilst they needed it, to make better use of the limited affordable housing stock over the long term. Flexible tenancies are offered for a fixed period of time, they are usually at least 5 years and they can be renewed if the tenant is still in need of their home. Flexible tenancies are in addition to other types of tenancies and social landlords do not have to use them.

3.7 The tenancy policy (2012-2017) set out the intention to use of flexible tenancies for all general needs housing from April 2013 (or as soon as practically possible after this date). Flexible tenancies have not been introduced to date in part because there have been concerns about the costs associated with renewing such tenancies. Each time a tenancy is renewed it will require the tenant to undertake a detailed assessment of their housing need, the tenant will need to complete forms and provide documentation and officers will require time to review and evaluate each tenancy, with additional costs involved in undertaking tenancy appeals and defending legal challenges. Such costs are hard to justify unless we can demonstrate benefits from this approach.

3.8 An assessment of Council tenancies was undertaken to inform the refresh of our tenancy policy. This suggested there would be a very limited benefit from introducing flexible tenancies to flats or housing designated for older people, the cost of using flexible tenancies for such homes would most likely outweigh any benefits. The

analysis did suggest that the use of flexible tenancies might be beneficial in 2 or more bedroom family houses over the long term.

- 3.9 The refreshed tenancy policy proposes restricting the use of flexible tenancies initially to homes let at an affordable rent, in line with the use of flexible tenancies by our housing associations partners who have stock locally. It is proposed to review the use of flexible tenancies when we have a clearer understanding of the costs as well as the potential benefits.

Flexible Tenancy Renewal

- 3.10 The new policy continues to support the automatic renewal of flexible tenancies unless there has been significant change in the household's circumstances. The new policy does however provide clearer guidance on what would count as a significant change in circumstances, aligning itself with our allocations policy, so that tenancy renewal reflects how we allocate our homes. In so much, if you would not qualify to join the housing register then you would not qualify to have your tenancy renewed (subject to various special considerations to protect vulnerable persons). These amendments make the policy more transparent and fairer, particularly with those on our housing register who are in need of an affordable home. It is presumed that most flexible tenancies will be renewed unless;

- a. the tenant has broken the terms of their tenancy agreement
- b. the tenant has the ability to access market housing;
- c. the tenant's housing need has changed;
- d. the property is required by the landlord for management reasons; or
- e. there are other exceptional circumstances

- 3.11 These criteria will reflect those in our allocations policy. For example, a household with an income above £50,000 usually cannot join the housing register and it is proposed that such a household should not normally have their flexible tenancy renewed; as both are thought to be able to meet their own housing needs by accessing market housing.

Flexible Tenancy Length

- 3.12 The revised tenancy policy continues to recommend to let all flexible tenancies for a 5 year period but also clearly states the circumstances when terms of a different length or a different type of tenancy might be offered; for example, when there is a mutual exchange involving one or more flexible tenant.

Vulnerable Persons

- 3.13 The tenancy policy (2012-2017) proposed to exclude all disabled persons from flexible tenancies. The definition of a disabled person was not clearly set out. It has been removed from the new policy, instead there are a number of policies to protect vulnerable persons, which is more in line with our homelessness duties. The revised tenancy policy sets out an approach where by the individual needs and circumstances of tenants are considered. This includes provisions to;
- Postpone a review if the households is dealing with a serious crisis or illness
 - Help to ensure security and stability of children, particularly in their education
 - Recognise limited alternative housing options in some rural areas
 - Listen to recommendations from support workers and other professionals
 - Consider the implications in terms of our homelessness duty

Wheelchair Adapted and Accessible Housing

- 3.14 There are very few specialist wheelchair homes, they are expensive to build or adapting from an existing home, it is particularly important to make the very best use of these homes. Given the links between aging and disability, the role of such housing will only become more important as our population ages. The tenancy policy allows a tenancy to be renewed (when it would not normally be) if the household need a specialist adapted home that is either not available or not affordable to them on the market.
- 3.15 The revised tenancy policy includes provisions to not renew a flexible tenancy where a household is living in a wheelchair adapted or accessible home with no need for it. This would only apply to highly adapted properties that are let on a flexible tenancy to qualifying households (mobility category 1 and 2 homes as defined in our allocations policy). We do not currently have any such homes let on a flexible tenancy, this policy will guide us should we build or acquire any such homes in the future or if any of our flexible tenancy homes are substantially adapted to meet the needs of a wheelchair user.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The tenancy policy has direct links to priority 9 of the Council's corporate plan; 'Help provide a stock of housing accommodation that meets the needs of the community'.
- 4.2 Under the Localism Act the tenancy strategy, allocations scheme and homelessness strategy are required to have regard to each other. Any future reviews or amendments of these three strategies will need to have regard to one another.
- 4.3 A tenancy policy is required to have regard to any relevant tenancy strategies. Policies within our tenancy policy have been aligned to our tenancy strategy, allocations scheme and homelessness strategy, particularly to ensure consistency and fairness when allocating our homes and renewing tenancies and to limit any effect in relation to our homelessness duties.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 The impacts of the tenancy policy will need to be monitored and will be subject to annual review.
- 5.2 As a social housing landlord, Melton Borough Council's tenancy policy must have due regard to the Council's tenancy strategy.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 The tenancy standard of the Regulatory Framework for Social Housing in England (2012) requires the Council to produce a tenancy policy to provide guidance on the types of tenancies it offers. It states that they should set out;
- The kind of tenancies they will grant;
 - The circumstances in which they will do this;
 - The length of tenancy terms;
 - The circumstances in which a further tenancy will be granted;
 - How tenancy decisions can be challenged;
 - The advice and assistance offered to tenants in the event that another tenancy is not granted; and

- Policies on taking into account the needs of vulnerable households.

6.2 The tenancy policy can potentially be challenged in court where a tenant appeals against a decision to grant a tenancy, renew a tenancy or end a tenancy on the grounds that it is not in accordance with our tenancy policy or if the tenancy policy fails to withstand scrutiny. Flexible tenancies and tenancy policies are relatively new; therefore there is little case law in regard to them being challenged in court. We will need to take into account any emerging case law when we review the tenancy policy.

7.0 COMMUNITY SAFETY

7.1 There are direct links to community safety particularly antisocial behaviour. The tenancy policy sets out actions to demote, not renew or end tenancies where one of our tenants (or someone who lives with our tenant or visits regularly) has behaved antisocially or caused nuisance in the area, threatened to do so or used their home for illegal activities such as drug dealing.

8.0 EQUALITIES

8.1 An equalities impact assessment was undertaken to support the Tenancy Strategy. This included an assessment of equalities data from our housing register and highlighting equalities as part of the consultation process. This equalities impact assessment identified that there may be impacts in relation to age and disability and has tried to mitigate those impacts wherever possible.

8.2 A further equalities impact assessment has also been undertaken to support the refreshment of our Tenancy policy and is shown in appendix B.

9.0 RISKS

Probability

Very High A				
High B				
Significant C				
Low D				
Very Low E			3	
Almost Impossible F		1	2	
	IV Negligible	III Marginal	II Critical	I Catastrophic
 Impact				

Risk No.	Description
1	Failure to adopt Tenancy Policy in accordance with Regulatory Framework for Social Housing in England (2012)
2	Tenancy policy fails to successfully mitigate against homelessness
3	Tenancy policy fails to withstand scrutiny when challenged in court

9.1 The risks above can be mitigated by following regulatory guidance, regularly reviewing the policy to ensure that it is compliant with any relevant case law and monitoring the effects of the policy; for example, on homelessness.

10.0 **CLIMATE CHANGE**

10.1 No implications have been identified.

11.0 **CONSULTATION**

11.1 The tenancy policy is based on our tenancy strategy which was subject to an extensive consultation process which included a Leicestershire wide workshop, a public pre-consultation exercise, consultation with our Housing Services Landlord task group and second phase of consultation on a draft tenancy strategy. These consultations informed both the development of our tenancy strategy and our tenancy policy.

11.2 Consultation with TFEC was undertaken to help inform the refresh of our tenancy policy (November 2014). TFEC raised two main concerns, firstly concerns about the cost of affordable rent for those with low to moderate incomes who are not in receipt of housing benefits. Secondly concerns when flexible tenancies are not renewed and the affordability and access to private sector rent. These concerns have been taken into consideration in the development of the tenancy policy.

12.0 **WARDS AFFECTED**

12.1 All wards are affected.

12.2 Rural areas face unique housing pressures and affordability, the tenancy policy recognised these issues and includes specific guidance regarding renewal of flexible tenancies to reflect the availability and cost of housing within our rural areas.

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Date: 5th January 2015

Appendices: Appendix A – Tenancy Policy

Background Papers: [The regulatory framework for social housing in England from April 2012](#)
[Local Decisions: a fairer future for social housing.](#)

Melton Borough Council – Tenancy Strategy

Reference: X:\Cttee, Council & Sub Cttees\CSA\2014.15