

26th September 2012**REPORT OF THE PORTFOLIO HOLDER FOR HOUSING****OPTIONS FOR FLEXIBLE TENURE FOR COUNCIL HOUSING****EXEMPT INFORMATION**

n/a

PURPOSE

To set out the options arising from greater freedoms and flexibilities contained within the Localism Act 2011 to transform council housing tenure.

RECOMMENDATIONS**Cabinet are recommended to:-**

1. Approve the Draft Tenancy Management Policy introducing fixed term tenancies from April 2013 for all new tenancies save exceptions listed. Delegating authority to the Portfolio Holder of Housing & Director of Housing & health, to approve any final material amendments, as necessary.
2. Approve the development of an Affordable Rent Policy during 2013/14 which assesses the financial impact and viability of charging increased rents based on the Affordable rent model
3. Approve the route map for delivering the Tenancy Management Policy
4. Waive financial regulations to allow Trowers & Gill Leng Consultants to advise on the legality of the policy as it is finally implemented and prepare the new fixed term tenancy agreements, with a value of work up to £6000.

EXECUTIVE SUMMARY

The Localism Act 2011 introduces a range of choices and changes that aims to give Local Authorities greater freedoms & flexibility to make best use of its social housing and manage down its waiting lists. Fundamentally these changes **will only affect new** tenants; all existing tenants security of tenure will be protected.

A key requirement for Tamworth was to publish its Tenancy Strategy by 15/1/13. Cabinet approved this in June 2012. A further requirement, also set out in the Regulatory Framework for Social Housing (2012), is that Landlords publish a Tenancy Policy in 2012. Landlords must have regard for the wider strategic framework and it was therefore prudent for the Council's Landlord Service to develop its Tenancy Policy following this.

In November, the Government launched the new strategy for housing, *Laying the Foundations, A Housing Strategy for England*. Over the last few weeks the Coalition Government have appointed a new housing minister, Mark Prisk MP, and announced a further housing and planning package to boost the economy. This is in addition to the “Pay to Stay” consultation paper that was issued in June which raises questions around whether social housing tenants should pay a market rent for their property if they earn more. The approach is to ensure that waiting lists are reduced by making better use of existing stock as well as recognising the need to build more affordable and social housing.

The new flexibilities are discretionary and Landlords are not required to introduce fixed term tenancies. Tenancy Policies must be clear and accessible and adopted following consultation. The Council’s Landlord Service already has a robust Tenancy Management Policy that was reviewed in 2009. The revised policies, set out at annex one, reflects outcomes from the consultation and fulfills this latest requirement.

The aims of a tenancy policy are to

- ✓ Respond to local housing need and create social mobility
- ✓ Make best use of stock to prevent under occupation
- ✓ Utilise all assets and match people to adaptations where this meets customers needs
- ✓ Create well balanced and sustainable communities
- ✓ Pave the way to maximise income on affordable rent as rent setting is reviewed
- ✓ Create more of a level playing field between the private and public rented sector

The opportunities and challenges have already been subject to widespread consultation. Members will recall the seminar in June 2012 that set out the key options. This presentation is attached at annex two.

In Summary the recommendation to approve the tenancy policy means an end to “life time tenure” and will see the introduction of fixed term tenancies based on a property review:-

Recommendation	Impact
Lifetime Homes remain for all 1-bed properties with the exception of adapted properties	None. As they will not be under occupying so not best use of staffing resources to review
Lifetime Homes for all those in Sheltered, extra care housing	None. As it is prudent to continue to offer life time homes as this is usually a final move and therefore supports an independent, secure and stable home and is consistent with obligations under the Equality Act 2010
2 Year fixed term tenancies	Any property being let that has ‘in principle’ has a decision to refurbish, dispose or regenerate
5 year fixed term tenancies - social	Any property coming void that is not listed above
Lifetime Homes for Tenants exchanging on mutual exchanges	Move on will be subject to the same rights prior to exchange, with the remaining period (if fixed) observed

Tenants moving between properties	As above
Succession	If it is a valid succession then the successor will inherit the existing tenancy type.
Introductory Tenancies	Not proposed to adopt
Develop an Affordable Rent Policy	Rents will continue to be set in accordance with the Councils rent setting policy and based on formula rents. Given the governments intention to legislate for rents to be set in accordance with personal income it is prudent to review this in the context of a wider rent setting policy as those national policy decisions are made.

The aim of the policy is to balance making best use of stock with sustaining communities. So where possible the council will give every support to tenants during the review process. But tenancies will not be renewed where:-

- A Property is adapted and no-one residing in that household requires the adaptations
- It is under occupied as defined in the current allocations policy
- Tenants don't evidence through the review process that they are entitled to remain
- Tenants themselves choose not to accept the terms of the new tenancy

RESOURCE IMPLICATIONS

There will be financial implications to introduce fixed term tenancies. Based on the predictions set out later in the report which highlights additional properties' potentially being brought to an end under the fixed term criteria, then this could result in the following

Social Return on Investment

Costs	Benefits
An estimated 18 extra voids per annum based on average void cost of £2k = £36,000	Making best use of stock thereby preventing homelessness
Additional rent loss of c£4,000 based on 3 weeks void time	Making best use of resources by avoiding additional adaptation costs
Legal costs with ending tenancies estimated at £500 per case	Difficult to predict as enforcement action may not be necessary in all cases

Despite the above costs we expect the community and social return to neutralise the loss of income. Paving the way for the future, the aim is that when the Affordable rent Policy is developed rents can increase to 80% of market value which may have the potential to generate income for the business plan. At this stage, any costs will be met from existing budgets and will be reviewed annually as part of the budget setting process.

There are inevitable start up costs comprising of:-

IT - There will be additional costs around IT infrastructure and development of procedures and systems. Landlord Services are already committed to the corporate change programme and any IT and system efficiencies will be realised. It is estimated that there will be a cost of around £5000 for Orchard to train and update the modules on the housing management system. This can be met from existing IT budgets.

Printing & Stationary Costs – it is envisaged that a new tenancy agreement and pack will be necessary and these costs are estimated at around £2,000.

Legal Support - There will be the inevitable costs of seeking further legal advice on the implementation plans as outlined. Trowers have already advised on the policy and Gill Leng Consultants have already been extensively involved in the work to date. It would therefore be financially prudent to let them complete the final stages of this work. This can be met from existing budgets and is expected to be up to £6,000. Original quotes were obtained via in-tend and there will be value for money savings by retaining their services, as required.

Staffing Support - There is no spare capacity across Landlord Services given the current commitments and ambitions of the HRA Business Plan. The Corporate Change Programme has provided the opportunity to review resources. Even with the re-alignment of duties, automating processes and working in different and smarter ways, there is still a need to consolidate resources on the voids and allocations team. During the 2012/13 budget setting process, additional funding was approved to support service improvements.

A report is being prepared for Appointment & Staffing which will look to formalise the existing void and allocation structure. Any future staffing requirements will be assessed as tenancies are reviewed in line with the proposed policy.

LEGAL/RISK IMPLICATIONS BACKGROUND

Ending life time homes has caused widespread debate. Implementation is not without its challenges. The Council will have to manage the reputational risk as people's tenancies are reviewed for the first time in 2017/18, or earlier if 2 year tenancies are awarded from April 2013. Given the potential for legal challenge and or judicial review officers have completed a community based risk assessment as well as policy risk assessment. The consequences and controls are set out at annex 5.

The policies have also been subject to legal scrutiny and comments reflected. Should there be any final amendments prior to implementation, that are material, then they will be reported to the Portfolio Holder of Housing

SUSTAINABILITY IMPLICATIONS

Maintaining sustainable communities is a primary aim of the policy. It is recognised

that this will be difficult when some tenants no longer have a life time tenancy. However the council will re-issue tenancies where circumstances are the same. The principal reasons tenancies will be brought to an end is if properties are under-occupied or have adaptations that the household would no longer benefit from.

The policy sets out how tenants' will be supported during the review process. This will start 12 months before the end of the fixed term and officers will signpost and support customers through the process in order to maximise all their housing choices.

The Equality Impact Assessment is also attached at annex 6 which gives due consideration to how client groups are supported.

MATTERS FOR CONSIDERATION

Tenancy Strategy

The Tenancy Strategy already adopted by Cabinet, expects to see 5 year tenancies utilised and expects to see tenancies re-issued where circumstances remain the same. The Tenancy Strategy gives full account of the wider social, housing and health determinants and recognises that Landlords should have flexibility of tenure where it serves to promote social mobility and makes best use of stock. The Tenancy Policy is compatible with the Tenancy Strategy and the exceptions to using 5-year fixed term tenancies are consistent with that framework.

Tenancy Policy

Consultants have been engaged to review the options and have facilitated a variety of workshops, seminars and discussions between Officers, Members and Tenants to look at the impact of the changes. The Tenant Consultative Group has also debated the draft tenancy policy and the document attached reflects that feedback.

CHOICE	ADVANTAGES	DISADVANTAGES
a) Secure (lifetime) for all	<ul style="list-style-type: none"> ○ Simple for all – one tenancy across home ○ Does not require additional staff inputs ○ Does not add to appeals/complaints ○ Community stability and tenant investment ○ Family stability and certainty ○ Minimises void turnaround and therefore void spend 	<ul style="list-style-type: none"> ○ Does not enable release of under-used homes ○ Reduces voids for those on waiting list – doesn't fulfil Government ambition for social housing (helping more people short term)
b) Fixed term for all	<ul style="list-style-type: none"> ○ Simple – one tenancy across homes ○ Best use of scarce stock ○ Releases more home to help others on the 	<ul style="list-style-type: none"> ○ Administratively burdensome ○ Corresponding increases in appeals ○ Instability for more vulnerable tenants ○ Does not support community

	list	investment by tenants <ul style="list-style-type: none"> ○ Some increased void spend ○ Requirement to invest in advice and assistance
c) Mix of secure and fixed term targeted at properties that are: in most demand scarce (e.g. adapted family homes) where changes in tenants circumstances more likely	<ul style="list-style-type: none"> ○ Best use of scarce stock ○ Administration targeted towards tenants whose circumstances most likely to change ○ Protects more vulnerable customers (e.g. elderly moving into sheltered) ○ Allows increased stability where that's more important to local community ○ Releases more homes to help others on the list ○ More stable communities overall 	<ul style="list-style-type: none"> ○ Potential for confusion, especially if criteria are complex ○ Increased administration ○ Corresponding increases in appeals ○ May deter community investment by tenants on fixed terms ○ Some increased void spend ○ Requirement to invest in (targeted) advice

Pay to Stay

The “pay to stay” consultation paper is attached at annex three. The closing date for responses was the 12th September and Tamworth has agreed to share customer feedback with ARCH (Association Retained Council Housing). They will be co-ordinating a response and officers will contribute to this. For information the responses from the National Housing Federation and Chartered Institute of Housing are available.

Consultation with stakeholders

The draft policy was the subject of detailed consultation. This involved a targeted survey during the Summer alongside a series of drop in sessions over September. The details of the consultation planning is shown at Annex four. Headlines from that consultation have now also been incorporated into the Policy.

Headline Comment	Adopted?
Agree that tenants should move on if they under-occupy family homes	✓ Adopted – 5 fixed term tenancies for all family accommodation
Good to hear disabled adapted homes are going to be used by people who need them	✓ Adopted – fixed term tenancies for all disabled adapted properties
Happy that existing tenants keep their security of tenure even if they swap	✓ Adopted – fixed term tenancies only apply to new tenants.
5 years is too short should be increased 10 years	✗ Not adopted - the Tenancy Strategy already adopted by

	Cabinet, expects to see 5 year tenancies utilised and expects to see tenancies re-issued where circumstances remain the same.
Does not give tenants any sense of security and incentive to invest in their property	<ul style="list-style-type: none"> Response - Tamworth Borough Council seeks to offer tenants a period of 5 years that allows a degree of stability to enable the tenant to invest in their home.
People who can afford it should pay a higher rent	<ul style="list-style-type: none"> Response –The Government has issued a consultation paper that suggests that households with higher incomes should be charged higher rates, therefore we await the Governments decision.

Customer Impact

Currently there are 2160¹ on Tamworth's housing register. This has remained fairly static over the last 3 years. The council current lets around 450 homes per year combining council housing and nominations. Around 50% on the list actively bid and therefore if we assume that 1080 people require housing then it is clear that we need to extend people's housing options. Looking at flexibility of tenure is only one option.

It is difficult to predict exact voids arising due to the nature of why people move. From 2011/12 there were 276 new lets, 229 general needs and 47 sheltered. Of the 229 general needs, 80 were transfers (who would have security of tenure protected). Potentially this could mean c175 tenancies are let on a fixed term basis from 2013. Again it is very difficult to predict, but based on historic trends around 10% of those would not meet the criteria to stay after 5years, resulting in a churn rate of around 17-18 properties a year from 2017/18.

Whilst it is not proposed to charge additional rent on these properties from April, the council will reserve the rights to charge affordable rent on these as it develops its Rent Policy.

Cabinet will also recall from the report in July 2012 on Welfare reform that it anticipates additional pressure on social housing as people face reductions in housing benefit for under occupation. Movement and churn will allow some flexibility to respond to that, although clearly this won't solve the problem.

Route Map and Next Steps

Activity	Timescale
Formalise staffing structure	Appointments & Staffing Committee October 2012
Setting up IT infrastructure	March 2013
Launch new Tenancy Policy and communications plan	Xmas 2012
Agree new tenancy agreement & new procedures including appeal	April 2013

¹ Housing waiting list as at June 2012

Train and brief staff and stakeholders	Sept – March 2013
Commission support on the development of an Affordable Rent Policy 2013/4	2013/14

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LIST OF BACKGROUND PAPERS

APPENDICES

Annex One – Draft Tenancy Policy 2012

Annex Two – Member Seminar & Presentation June 2012

Annex Three – CLG “Pay to Stay” consultation Paper issued June 2012.

Annex Four – Consultation Planning

Annex Five – Community Impact Assessment & Risk Assessment

Annex Six – Equality Impact Assessment