

Southend-on-Sea Borough Council

Report of Corporate Director for People
to
Policy & Resources Scrutiny Committee
on
11th July 2013

Agenda
Item
No.

5

Report prepared by: Daniel Baker, Group Manager Strategy
and Planning

**Southend-on-Sea Borough Council's
Tenancy Policy 2013-18
Executive Councillor: Councillor Lesley Salter
A Part 1 Public Agenda Item**

1. Purpose of Report

- 1.1 To present the draft Southend-on-Sea Borough Council Tenancy Policy, outlining the Council's proposed approach to flexible tenancies, for consideration.

2. Recommendation

- 2.1 The Committee's views are sought on the proposed Southend-on-Sea Borough Council Tenancy Policy 2013-18.
- 2.2 To endorse the Tenancy Policy 2013-18 for further consultation with key stakeholders.

3. Background

- 3.1 The Localism Act 2011 requires local housing authorities to publish a Tenancy Strategy setting out the framework for future delivery of new housing and tenancy policies which Registered Providers should have regard to when formulating their own tenancy policies. As such, the Southend on Sea Borough Council, Strategic Tenancy Strategy 2013 - 18 (STS) was adopted in January 2013.
- 3.2 The STS outlines broad principles which have been developed through consultation with local social housing landlords and mindful of the legal requirements of the Localism Act 2011;
- Flexible tenancies can be a useful tool to better manage stock which is under-occupied or no longer meets a resident's needs.
 - Generally flexible tenancies should consist of a 1 year introductory tenancy followed by a flexible tenancy of a minimum term of 5 years.
 - Where a flexible tenancy is coming to an end the tenant should be given suitable notice of the next steps (whether the tenancy will be

renewed or ended), given advice on alternative housing options and be made aware of their right to review decisions.

- Whilst flexible tenancies could be offered in the majority of cases there will be certain groups who require lifetime tenancies eg older applicants seeking sheltered accommodation.
- Existing tenants should be moved to tenancies with at least the same level of security e.g. existing assured/secure tenants would move to assured/secure tenancy. Unless they voluntarily bid for a alternative accommodation through Choice-based lettings.
- Social landlords should set new Affordable Rents at genuinely affordable levels taking into account local circumstances.

3.3 As outlined in the STS the Council have recognised the benefit of utilising flexible tenancies where appropriate, to make best use of the social housing stock. Accordingly the draft Tenancy Policy **Appendix 1** has been informed by the principles laid out in the STS.

3.4 Under section s150 of the Localism Act, as a stock holding authority the Council is required to produce its own Tenancy Policy outlining how the Council will grant tenancies (list of tenancies at Table 1) and in particular its approach to administering and managing flexible tenancies.

| Type of Tenancy | By Law before April 2013 | Options after April 2013 | Comments |
|------------------------------------|--------------------------|--------------------------|--|
| Local Authority secure tenancy | ✓ | | A 'lifetime' tenancy for existing tenants |
| Local Authority new secure tenancy | | ✓ | A 'lifetime' tenancy for new tenants with exceptional circumstances e.g. rehoused in sheltered housing |
| Flexible tenancy | | ✓ | A rolling 5 year fixed term tenancy subject to review |
| Introductory tenancy | | ✓ | An introductory tenancy is a one-year trial council tenancy |

Table 1 Showing range of local authority tenancy options post Localism Act 2011

3.5 Once published the policy will govern all new tenancies granted by the Council. It should be noted that existing tenants receive certain protected rights in maintaining the same level of tenancy security when transferring to alternative social housing.

3.6 The draft Southend-on-Sea Borough Council Tenancy Policy proposes that all new tenants will continue to be granted Introductory Tenancies for a period of 1 year.

3.7 If an Introductory Tenancy is completed satisfactorily the Council will grant flexible tenancies in the majority of cases. The exceptions to this will be those tenants over 60 who are entering sheltered

accommodation and existing secure transfer tenants who will continue to be granted secure 'lifetime' tenancies.

- 3.8 In most cases a flexible tenancy will be for a term of at least 5 years. However, in certain cases a flexible tenancy length of between 2 and 5 years will be considered.
- 3.9 At the end of the flexible tenancy period a review will take place using the criteria outlined in the policy which will determine whether a new tenancy is granted and the length and type of tenancy offered.
- 3.10 As part of this process a tenancy review meeting will be held a minimum of 10 months prior to the end of the flexible tenancy term. This meeting, between the Council (or representative acting on behalf of the Council) and the tenant will provide an opportunity to discuss the tenant's current situation and what will happen to the tenancy when it comes to an end.
- 3.11 It is proposed that the review criteria will focus on the following factors:

➤ **The needs and aspirations of the household**

The review offers the opportunity for the Council to have productive dialogue with tenants on a range of housing related issues. The Council will be able to offer advice to tenants regarding their current and future housing options. Depending on the situation this may include consideration of mutual exchange, home ownership, shared ownership, sheltered housing and private rented housing.

➤ **Whether a household still requires the same size property**

If at the time of review the household is under-occupying they will be prioritised and assisted to secure alternative accommodation appropriate to their needs.

Where a household is assessed as over-occupying accommodation the Council will offer advice to make a transfer application, discuss the possibility of mutual exchange and other housing options.

➤ **The conduct of the tenant**

Where the tenant has breached the terms of their tenancy or breached an agreement set-up to remedy this breach (eg rent arrears repayment plan) it is proposed that the Council can either offer a shorter term flexible tenancy (minimum 2 years) or not grant an additional tenancy. The decision will be based upon the severity of the breach of tenancy and an assessment of whether, and how successfully, the tenant has acted to remedy these breaches.

➤ **The income and assets of the tenant and their spouse/partner**

The income and assets of the tenant and their spouse/partner will be assessed as part of the tenancy review to determine whether they would still qualify for social housing using the thresholds (annually updated) included in the Council's Allocations Policy.

- 3.12 The policy provides details of how the Council, and agencies acting on the Council's behalf, will communicate the new processes involved in managing flexible tenancies, setting timescales which guarantee tenants receive information regarding their tenancies and the availability of appropriate advice.
- 3.13 The policy also outlines a tenant's right to appeal decisions made under the policy and an outline of the appeals process.
- 3.14 Officers will continue to refine the policy in consultation with South Essex Homes and key stakeholders and in accordance with Members views prior to publication.
- 3.15 It is proposed that the policy is subjected to review by housing law experts prior to publication to ensure that legislative requirements have been met.
- 3.16 The Localism Act has removed the statutory right of succession of a tenancy to family members (e.g. Parent, Brother, Sister, Uncle) of a tenant who has died. The Localism Act still includes a statutory right of succession of a tenancy to a spouse or civil partner in the event of a tenant's death and this is included in the Tenancy Policy.

4. Other Options

- 4.1 In order to introduce flexible tenancies the Council is required to publish a Tenancy Policy.

The Council can decide not to introduce Flexible tenancies at this time. However, it is believed that flexible tenancies will assist the Council in meeting a number of strategic housing aims: to reduce under-occupation and ensuring those in greatest need have access to social housing. As such it is recommended that the Council introduce Flexible Tenancies in line with principles of the approved Strategic Tenancy Strategy.

5. Reasons for Recommendation

- 5.1 In order that the Council can introduce flexible tenancies and to fulfil the Council's statutory commitments as outlined in the Localism Act 2011.

6. Corporate Implications

6.1 Contribution to Council's Vision and Corporate Priorities

The policies discussed in this paper help to contribute to achievement of the corporate aim- *Enabling well planned quality housing and developments that meet the needs of Southend's residents and businesses*

6.2 Financial Implications

The introduction of flexible tenancies will incur costs for the Council in terms of staff resource, any legal advice required and production of literature accompanying new tenancy type.

In addition flexible tenancies will require a greater amount of administration than traditional secure 'lifetime' tenancies. The Council or partner's acting on the Council's behalf will need to undertake a check on all new tenants' situations whenever a flexible tenancy is coming to an end. This assessment will inform the decision of whether to grant a further tenancy or to explore other options. This will require an increase in resources for tenancy management but these costs will potentially be offset through ensuring properties go to those who need them, tackling tenancy fraud and improving intelligence on who and the circumstances of the Council's tenants.

Discussions with SEH have begun to explore the potential resource implications of implementing flexible tenancies.

6.3 Legal Implications

S154 of The Localism Act 2011 sets out the rules re flexible tenancies i.e. lengths of terms, reviews etc and changes to the way that tenancy succession is managed.

There is a regulatory requirement to produce a Tenancy Policy as laid out in The Regulatory Framework for Social Housing in England from April 2012 (specifically- the Tenancy Standard) The Tenancy Policy should outline the approach to tenancy management including flexible tenancies, specifically:

'Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud'

6.4 People Implications

This policy will provide a consistent framework for the Council and its partners to consider when granting tenancies to people moving into Council owned social housing.

6.5 Property Implications

None identified.

6.6 Consultation

A consultation exercise with local social housing landlords was undertaken in Summer 2012 seeking views and reactions to the new tenancy reforms. A questionnaire was sent to social housing landlords and a collection of the responses has helped to inform the production of the Strategic Tenancy Strategy.

It is proposed that the draft document is circulated for consultation with key stakeholders in order that comments can be considered prior to final publication.

6.7 Equalities and Diversities Implications

An Equality Analysis of the Tenancy Policy is being undertaken and will be published with the final document.

6.8 Risk Assessment

As a new tenancy, the mandatory right to possession at the end of a flexible tenancy is yet to be tested in the courts. It is likely that emerging case law will influence and change the way that flexible tenancies are managed. It is proposed that the final policy is reviewed by housing legal experts prior to publication and that the Council remains alert to changes occurring due to case law concerning flexible tenancies.

6.9 Value for Money

The Council can better manage the resources of the housing stock through use of flexible tenancies. Ensuring that tenants are in properties that match their needs in terms of size and appropriate to their financial situation will secure the best use of the stock and help to reduce homelessness costs and potentially reduce rent arrears (under-occupancy).

6.10 Community Safety Implications

Effective tenancy management is an essential part of achieving community safety.

6.11 Environmental Impact

Effective tenancy management can help to contribute towards achieving a high quality local environment.

6.12 Background Papers

The Southend-on-Sea Housing Strategy 2011-21, (2011)
The Southend-on-Sea Borough Council Strategic Tenancy Strategy
2013-18 (2013)

7 Appendices

Appendix 1 Southend-on-Sea Borough Council Draft Tenancy Policy
2013-18p