

Adoption of revised Tenancy Strategy 2022

Overview and Scrutiny	15th March 2022
Report Author	Bob Porter, Director of Housing and Planning
Portfolio Holder	Cllr Jill Bayford, Portfolio Holder for Housing
Status	For Information
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
To be Considered by	Cabinet 17th March 2022
Ward:	All

Executive Summary:

This is a covering report to advise O & SP on the recommended changes to the Tenancy Strategy which will be considered by cabinet on 17th March 2022.

Recommendation(s):

Overview and Scrutiny are invited to comment and make recommendations on the revised Tenancy Strategy.

Corporate Implications

Financial and Value for Money

The proposed changes do not have an immediate financial impact. Moving to secure/lifetime tenancies may reduce voids and associated costs across the housing stock moving forward as well as securing rental income for these units, however it is difficult to model the precise financial implications.

Legal

Under section 150 of the Localism Act, local housing authorities must prepare and publish a tenancy strategy setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to:

- a) the kinds of tenancies they grant,
- b) the circumstances in which they will grant a tenancy of a particular kind,

- c) where they grant tenancies for a term certain, the lengths of the terms, and
- d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy

A local housing authority must have regard to its tenancy strategy in exercising its housing management functions, must keep its tenancy strategy under review, and may modify or replace it from time to time.

Corporate

The revised Tenancy Strategy and Tenancy Management Policy supports our Corporate Statement 2019-2023 - Communities. We are committed to ensuring that we are delivering high quality housing, safer communities and enhancing the health and well-being of our residents.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Communities*

1.0 Introduction and Background

- 1.1 Under section 150 of the Localism Act 2011, the Council is required to develop and publish a Tenancy Strategy setting out the Council's preferred position on:
- The type of tenancies granted in the district;
 - The circumstances in which particular types of tenancy will be granted; · The length of time a tenancy will be granted for;
 - How tenancies will be managed towards the end, including the offer of a new tenancy.
- 1.2 It should be noted that although the Tenancy Strategy gives the Council's preferred position, Registered Providers of Social Housing (RPSH) operating in the district are only required to have regard to this.
- 1.3 The Localism Act 2011 also requires the Council as a social housing landlord to produce a Tenancy Management Policy that has regard to the Tenancy Strategy and sets out how Thanet District Council will operationally grant and manage tenancies.
- 1.4 The Tenancy Strategy published by Thanet District Council in 2018 needs updating. When amending the existing Tenancy Strategy, the Council is required to invite comment from its RPSH partners.

2.0 The Current Situation

- 2.1 The Act introduced a raft of fundamental reforms of social housing tenure.

The most significant of these were:

- Both Local Authorities and RPSH are now able to offer fixed term tenancies of a minimum of 5 years, or in exceptional circumstances 2 years instead of the traditionally longer 'lifetime' secure tenancies
 - Local Authorities were allowed more flexibility to set their own Allocations Policies to meet local needs and circumstances
 - Local Authorities can now place homeless households in suitable Private Rented Sector housing
 - A new model of affordable rents of up to 80% of market rent can be applied to new housing developments and in some cases existing housing stock can be converted when vacant from social rent to affordable rent levels
 - Local Authority stock owners and RPSH must prepare and publish a Tenancy Management Policy setting out the types of tenancy they will use when letting their homes.
 - New arrangements have been introduced for tenants seeking to mutually exchange homes in cases involving fixed term tenancies and or affordable rents.
 - Changes to the rights of succession has limited those able to succeed to a tenancy on the death of the tenant
- 2.2 As a strategic housing authority Thanet District Council has a responsibility to develop and publish a Tenancy Strategy giving guidance to partner Registered

Providers of Social Housing (RPSH) on the use of different tenancy types and affordable rents in the District.

- 2.3 The Tenancy Strategy sets out the strategic position of the Council with regards to the use of, review of and ending of fixed term tenancies, affordable rents, mutual exchanges, succession rights and dealing with tenancy fraud. In most respects the strategic position taken by TDC remains the same as that taken in 2018.
- 2.4 The significant difference relates to the use of fixed term tenancies in the district, where in light of national and local changes in attitude to their use the Council will no longer be recommending they be used as a preferred tenancy type. The rationale for this is set out below.

3.0 Flexible Tenancies

- 3.1 One of the key objectives of fixed term tenancies was to enable social housing providers to make the best use of the social housing stock by addressing under occupation and encouraging those people who can afford to do so, to move to other tenures such as private rented accommodation or homeownership.
- 3.2 The appetite for fixed term tenancies among RPSH has been mixed with some local providers electing to use them and others continuing to offer lifetime tenancies.
- 3.3 Thanet District Council started using flexible fixed term tenancies for new tenants in October 2018. The Housing and Planning Act included (as yet unenacted) sections of legislation, which sought to make the use of fixed term tenancies by local authorities mandatory.
- 3.4 The Grenfell Tower fire in June 2017 was one of the UK's worst modern disasters and in the aftermath of this the Government has unveiled important planned changes to the regulation and management of social housing. In its Green paper 'A new deal of social housing' published 14 August 2018 the Government confirmed that it no longer intended to implement the provisions in the Housing and Planning Act 2016 that sought to make fixed term tenancies mandatory for local authorities after listening to residents' concerns.
- 3.5 The Social Housing White Paper published on 17 November 2020 set out a Charter for Social Housing Residents and affirms the Government's continuing commitment to give social housing tenants a greater voice, the right to safe and secure accommodation and of the importance of good quality homes and neighbourhoods to live in.
- 3.6 Support for flexible tenancies has changed dramatically since the Council's last Tenancy Strategy published in 2018 and nationally some of the changes detailed above have been the catalyst for some large RPSH and Councils to evaluate the benefits of fixed term tenancies and as a consequence end their offer of these entirely.
- 3.7 The development of this strategy has taken into account the changing national attitude to flexible fixed term tenancies, the responses from our RPSH partners and our own experience of their use. Although they were intended to help social

landlords make the best use of affordable housing there have been a number of significant disadvantages to their use including:

- Tenants feeling concerned and anxious about their futures based on their tenure type.
- Lack of investment by families in their home and community because they feel they will move on.
- Little impact in terms of stock turnover and vacancies
- Potential conflict with the Government priority to give tenants a stronger voice.
- Significant administrative costs involved with the scheme particularly where the majority of tenancies are set to continue.

4.0 Tenancy Management Strategy

- 4.1 As a stock owning authority TDC are also required to develop and publish a tenancy Management Policy setting out how we will operationally manage tenancies for our own properties.
- 4.2 A copy of the draft Tenancy Management Policy is attached at appendix 2 setting out the types of tenancy the Council propose to offer new tenants in future, how tenancy fraud will be tackled, successions and mutual exchange requests responded to and how tenancies will be brought to an end.
- 4.3 Since 2014 TDC have been offering most new tenants a year-long introductory tenancy followed by a five-year flexible tenancy. There are currently 814 tenants with this type of agreement. The redrafted Tenancy Management Policy will mean that future new tenants will usually be offered introductory tenancies followed by lifetime secure tenancies rather than flexible fixed term tenancies. Those housed temporarily because of homelessness will continue to be offered non secure tenancies under the relevant provisions of the Housing Act 1996.
- 4.4 Tenancies created in 2014 started to fall due for review from 2019. Unfortunately a number of these reviews were missed by East Kent Housing and this position was exacerbated by the national lockdowns in response to the Covid pandemic. As a consequence, 154 flexible tenancies rolled over into weekly periodic tenancies. These tenants have been written to and advised that they now have secure tenancies. A further 49 cases will shortly be in the same position and will be dealt with in the same way.
- 4.5 To regularise the position for the remaining fixed term tenants it is proposed that the following action be taken. Until Cabinet approval and adoption of the tenancy management policy existing flexible tenancies due for review will follow the established arrangements and be offered a new fixed term tenancy.
- 4.6 All new tenants will be offered an introductory tenancy of 12 months and advised that this will become a flexible tenancy unless the proposed revisions to the Tenancy Management Policy are approved. This is because a tenancy cannot become a flexible tenancy unless notice of this is given before the tenant signs the tenancy agreement and there will be a period before the policy is formally adopted.

- 4.7 Upon approval and adoption of the Tenancy Management Policy those tenants who have already completed their 1 year introductory tenancy and moved into the flexible tenancy period or had their flexible tenancy renewed will be contacted. Where their tenancy is being well maintained and there are no breaches of the tenancy conditions they will be invited to make use of the break clause in their tenancy agreement and give up their current fixed term tenancy and be re offered a lifetime secure tenancy. The effect of this will be to improve their security of tenure and will not affect any of their existing tenancy rights.
- 4.8 In cases where there is a current ongoing breach of tenancy conditions the tenant will be asked to remedy this before any action is taken to change the tenancy type.

5.0 Tenancy Audits

- 5.1 One of the benefits of conducting flexible tenancy reviews was the opportunity that it presented to have contact with each tenant and identify any issues they were having with their tenancy. Situations where the tenant is struggling or having difficulty maintaining their tenancy or repairs are outstanding would be picked up along with any potential tenancy fraud.
- 5.2 Housing officers will be conducting tenancy audits on a rolling 5- year programme. These visits will offer the same opportunity as flexible tenancy reviews to have contact with existing tenants, establish any support need they have and or desire to move to alternative accommodation.

6.0 Consultation

- 6.1 Consultation has taken place with tenants, residents and RPSH for 4 weeks, 22nd November 2021 to 20th December 2021.
- 6.2 It is a requirement of the Localism Act that RPSH are invited to comment on any revisions to the Tenancy Strategy and of s.105 of the Housing Act 1985 that the local authority consult with tenants when making changes to the management arrangements for Council owned homes.
- 6.2 The statutory requirement is set out at s.151(1) of the Localism Act 2011 which states: Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must—
- (a) send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and
 - (b) give the private registered provider a reasonable opportunity to comment on those proposals.
- All registered providers were written to and advised of our proposals, however no response from them was received.
- 6.3 The Council's tenants were written to individually and advised of the options being recommended to Cabinet. Tenants that asked for further information have been contacted and are fully supportive of the proposal.

Contact Officer: *Ashley Jackson, Housing Strategy & Projects Manager*
Reporting to: *Bob Porter, Director of Housing and Planning*

Annex List

Annex 1: Tenancy Strategy 2022
Annex 2: Tenancy Management Strategy
Annex 3: Equalities Impact Assessment

Corporate Consultation

Finance: *Chris Blundell (Director of Finance)*

Legal: *Estelle Culligan (Director of Law and Democracy & Deputy Monitoring officer)*