

North East Derbyshire District Council

Cabinet

9 May 2018

Tenancy Strategy

Report of Councillor E A Hill, Portfolio Holder with Responsibility for Housing Strategy and Social Inclusion

This report is public

Purpose of the Report

- To seek approval of the draft Tenancy Strategy and subsequent amendments
- To agree that the Tenancy Strategy will be valid for 3 years unless any major or legislative changes need to be incorporated

1 Report Details

- 1.1 The Localism Act 2011 placed a new duty on local housing authorities to prepare and publish a tenancy strategy; these provisions came into force on 15 January 2012. The strategy must set out the matters to which Registered Providers of social housing are to have regard in formulating their tenancy policies. These tenancy policies will explain how Registered Providers (RPs) intend to implement the range of new flexibilities introduced through the Localism Act 2011.
- 1.2 The Council adopted its Tenancy Strategy in January 2013 which was applicable for the period of 3 years and was reviewed in January 2016. At this time proposed legislative changes were impending therefore a review date of January 2017 was set. This date has now expired therefore a desk top review of the strategy has taken place.
- 1.3 The Tenancy Strategy provides a framework for how social rented housing is provided in the district, it also links with the Housing Allocations Policy and Homelessness Code of Guidance and outlines the Council's position on the following social housing reforms:
- Affordable Rent
 - Flexible Fixed term Tenancies
 - Discharge of Homelessness Duty by offer of accommodation in the private rented sector
 - Change to Succession Rights.
- 1.4 Under review minor amendments have been identified to keep in line with current legislation, key wording includes;
- wording to incorporate the Homeless Reduction Act
 - amended wording to Succession Rights

Also the statistical data embedded in the Strategy has been updated and new build housing targets have been brought in line with the emerging Local Plan.

2 Conclusions and Reasons for Recommendation

2.1 Under the Localism Act 2011 the Council has a statutory duty to adopt a Tenancy Strategy and review periodically.

2.2 It is recommended that Cabinet agree to the draft Tenancy Strategy and subsequent amendments with a review date of 3 years, however if future major legislative or operational amendments are required to be incorporated then a review can be conducted before the term ends.

3 Consultation and Equality Impact

3.1 The EIA was completed in January 2013 when the Strategy was adopted.

3.2 As there are no major amendments that would impact the district and other housing providers no consultation is required to taken place. These amendments are quoting legislation and bringing up to data the statistical data.

4 Alternative Options and Reasons for Rejection

4.1 An alternative option would be not to review the Tenancy Strategy, however as the current strategy is outdated, this option was rejected due to the fact that the Council would not be fulfilling its legal duty.

5 Implications

5.1 Finance and Risk Implications

5.1.1 No implications.

5.2 Legal Implications including Data Protection

5.2.1 Not to have a Tenancy Strategy would be illegal under the Localism Act 2011.

5.3 Human Resources Implications

5.3.1 No implications.

6 Recommendations

6.1 To approve the draft Tenancy Strategy and subsequent amendments.

6.2 To agree for the Tenancy Strategy to be reviewed in 3 years unless any major operational or legislative changes need to be incorporated then a review can take place prior to this date.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	None, this is aimed at registered providers to inform them of what the Council is doing with regards to tenancies and affordable rents et., and what the Council expects from the registered providers.
<p>Links to Corporate Plan priorities or Policy Framework</p>	<ul style="list-style-type: none"> • Providing good quality social housing • Champion equality and diversity • Supporting vulnerable and disadvantaged people • Increasing customer confidence and satisfaction with our services

8 Document Information

Appendix No	Title
1	Draft Tenancy Strategy
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
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Tenancy Strategy

(North East Derbyshire District
Council's Tenancy Policy)

April 2018

CONTROL SHEET FOR TENANCY STRATEGY

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Tenancy Strategy
Current status - i.e. first draft, version 2 or final version	Final Version - 2016 update 2018
Policy author	Diane Parker
Location of policy - i.e. L-drive, shared drive	S-drive
Member route for approval	
Cabinet Member (if applicable)	Cllr E Hill
Equality Impact Assessment approval date	7 th January 2013
Partnership involvement (if applicable)	Bolsover DC and Chesterfield BC
Final policy approval route i.e. Executive/ Council /Planning Committee	Cabinet/Full Council
Date policy approved	7 th January 2013, revision 10 February 2016
Date policy due for review (maximum three years)	January 2021
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	7 th March 2016

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1. Introduction

The Localism Act 2011 placed a new duty on local housing authorities to prepare and publish a tenancy strategy; these provisions came into force on 15 January 2012.

The strategy must set out the matters to which Registered Providers of social housing are to have regard in formulating their tenancy policies. These tenancy policies will explain how Registered Providers (RPs) intend to implement the range of new flexibilities introduced through the Localism Act 2011.

2. Scope

Registered Providers of social housing should have due regard to the framework provided by this strategy when formulating their own tenancy policies so that we can work in partnership to provide the best housing options and outcomes for our residents.

3. Principles

The production of a tenancy strategy is a legal requirement for local authorities under the Localism Act 2011. It will link to the council's Homelessness Strategy and Allocations Policy in terms of providing a framework for how social rented housing is provided in the district.

The Allocations Policy is reviewed separately to take account of the freedoms for local authorities to decide their own priorities, which are set out in the Localism Act 2011 and the Code of Guidance on the Allocation of Accommodation published in July 2012.

This strategy has been developed through consultation with Elected Members, Registered Providers and partner local authorities. This has included a scoping questionnaire to all Registered Providers, face to face consultation at the sub-regional Registered Provider Forum, and through circulation of the strategy for comment.

4. Statement

4.1 Objective

The overall objective of this tenancy strategy is to ensure that our Registered Provider partners work with us to deliver neighbourhoods that are sustainable and provide our residents with settled and stable homes.

4.2 Local Context

Housing Stock within the district

	Number
Total households Source : NEDDC as at 1 April 2017	45,348
Local Authority Social Housing Stock as at 1st April 2017 Source: LAHS 2017	7,922
Register Provider social housing stock in NEDDC Source: NEDDC Data 2015	1,044

There are 7,922 (2017) homes owned by the Council, and 1,044 (2015) rented homes owned by Registered Providers. This equates to 19.7% of the total number of households in the North East Derbyshire district.

Housing Register and Allocations

	Number
Number of applicants on the Housing Register as at 1 April 2017	1,691
Number of lettings 2016/17	676
Number of nominations to Registered Providers	40 (approx.)

Source: LAHS 2017

The Local Authority Housing Statistics (LAHS) shows as at 1 April 2017 the Council's Housing Register has 1,691 applicants. 676 lettings were made during the year 2016/17, together with approximately 40 nominations to Registered Providers (all Housing Associations).

A Housing Needs, Market and Affordability Study was carried out for the council by GL Hearn and jgconsulting in 2011 and has since been updated in October 2017. The updated study concluded that, in order to meet all housing need in the district 172 new affordable homes should be provided each year, this is also stated in the Council's emerging Local Plan which sets out a requirement to provide at least 30% affordable housing within high value areas, and at least 20% in the remaining area of the District, as informed by the Whole Plan Viability Assessment 2018 (Publication draft Local Plan February 2018).

Average House Prices

Average house prices were found to be almost 6 x average household income, normally a figure of 3.5 times single earner household income or 2.9 times for a dual- income household is used to assess affordability; this highlights the difficulty in purchasing a property for many people in the district. According to the Housing Needs, Market and Affordability study between 2008 and 2016 house prices have increased by 6% in the district. Added to this is the difficulty in accessing mortgage finance for first time buyers, and the high deposits required, which compounds the problem.

Weekly Rental Prices in the District

No. of bedrooms	Average Social Rent	Affordable Rent Levels (based on 80% of private rents)	Average Private Rents	Upper Quartile Private Rents	Average Local Housing Allowance Rate
1	72.71	76.00	95.00	98.00	80.55
2	78.68	92.00	115.00	126.00	97.841
3	80.31	120.00	150.00	173.00	113.92

Source: Hometrack, Local Authority Housing Statistics (LAHS) 2016/17 and Current

The table above shows the difference in rental costs between the different forms of tenure for different sized properties. The difference between social rents and Affordable and private rents increases with the size of the property so that a 3 bedroom house let at an Affordable Rent is on average **50%** more than one let at a social rent.

4.3 Social Housing Reforms and Guidance to Registered Providers

The Government has introduced a number of reforms to allocations and social housing tenure that offer new flexibilities to social landlords. The following sections provide guidance to Registered Providers and set out the Council's position in relation to the reforms.

Affordable Rent

Affordable Rent was introduced as the model for financing new social homes in the Homes and Community Agency's Affordable Homes Programme 2011-2015. **The Government has launched the Affordable Homes Programme for 2016-21**, and announced at Autumn Statement new funding and greater flexibility so that it now funds a range of affordable homes for rent as well as home ownership. Affordable Rents can be set **up to a maximum of 80% and providers should set rents in accordance with the requirements of the Welfare Reform and Work Act 2016**. The additional income generated by Affordable Rents is to be used for reinvestment in new affordable housing. Since April 2012 local authorities and Registered Providers have been able to let properties on an Affordable Rent basis if they wish to do so.

Affordability must be considered when setting Affordable Rents that are based on private rental prices. 80% of market rent in the more expensive parts of the district, such as some rural villages, could make Affordable Rents too expensive for those on a low income. The table at 4.2 shows that the larger the property, the wider the gap between social and private rents. As Affordable Rents are based on up to 80% of market rents there is a concern that 3 and 4 bedroom properties will become unaffordable for those households on a low income.

Conversions of social rented properties to Affordable Rent by Registered Providers should be carried out with care, taking into account the above points and also the tenure mix within the area concerned. We would like to be notified in advance of any proposed conversions to Affordable Rent.

Fixed Term Tenancies

Since the revised Tenancy Standard April 2011, Registered Providers have had the option of offering tenancies for a fixed period of time instead of the traditional lifetime tenancies. Registered Providers can determine the length of tenancy that they offer to new tenants, although the Government has specified that the minimum period of a fixed term tenancy should be at least five years, except in exceptional circumstances. Details of a Registered Provider's position in relation to fixed term tenancies must be set out in their tenancy policy.

Through the Localism Act 2011, since April 2012 local authorities and all Registered Providers can also use flexible tenancies for new tenants if they wish to do so. Existing tenants will not be affected by this change.

The aim of the reform is to ensure that those in most need are able to access social housing and that if a tenant's circumstances change to enable them to access private housing, they can move on and free up a social rented property for others.

The Council is to pilot a scheme and grant 2 or 5 year Flexible Tenancies to a small number of applicants, which may prevent homelessness, financial hardship and/or help with their health and wellbeing at a time when they are in most need. Certain property types to help manage and make best use of the councils housing stock is also in the proposal. Below is an overview of the proposed circumstances in which the Council may grant a Flexible Tenancy;

- applicants with equity/savings/assets of £30,000 or more but who are unable to access their funding to secure alternative accommodations at their current time, for example; relationship breakdown, fleeing domestic violence. This will alleviate their housing crises until such a time there circumstances change and are financially able to secure alternative accommodation, and;
- applicants who are in need of major adapted properties due to their current circumstances, but may not require the adaptations in the future, which will allow the council to make best use of its housing stock and help more applicants into suitable accommodation which meets their housing need, and their current circumstances, and;
- to use with potential long term empty properties, for example, properties that are in a regeneration programme, but are still of a lettable standard. This will allow scope to re house applicants who require temporary accommodation whilst at the same time generating revenue income stream from the rents and decrease the voids.

See the Flexible Fixed Term Tenancy Policy for further information and the Councils housing Allocations Policy.

The Council reserves the right to review this decision at any time.

If Registered Providers decide to use fixed term tenancies they should have regard to the following:

- Tenancies of five years (or more) should be awarded and 2 years in exceptional circumstances
- Vulnerable people in need of settled or stable accommodation, where their situation is unlikely to change, should be granted permanent tenancies.
- Fixed term tenancies should not generally be used to control rent arrears or anti-social behaviour; the normal possession grounds should be used to tackle these issues

Review and Renewal of Fixed Term Tenancies

Where Registered Providers decide to introduce fixed term tenancies they are asked to have regard to the following:

- When carrying out a tenancy review there should be a presumption of renewal of the tenancy on terms at least equivalent to that which is currently held, unless the specified reasons for not granting another tenancy are met. Registered Providers should show good reason for not renewing the fixed term tenancy, and these reasons should be clearly explained to the tenant
- At least six months notice must be given to the tenant before the tenancy is due to end. The tenant should be advised of their right to request a review of the proposal and of the time within which this request needs to be made
- Where a new tenancy is not being offered, advice and assistance should be given to the tenant at the earliest opportunity to help them to find suitable alternative accommodation. The local authority should be notified as soon as possible if homelessness could potentially arise, but it is expected that the Registered Provider will take all steps necessary to avoid this outcome

Discharge of homelessness duty by offer in the private rented sector

The Localism Act 2011 allows a local authority to discharge its homelessness duty by making an offer of accommodation in the private rented sector; **the Homeless Reduction Act 2017 and the Homeless Code of Guidance states that under the 'relief duty' the Local Authority is required to help people who are homeless to secure accommodation, this can be in the private sector with a minimum 6 months tenancy. However local authorities are to have regard to the suitability of accommodation in line with the Homelessness (Suitability of Accommodation) (England) Order**

2012, and that the property's minimum requirements are adhered to in respect of health and safety and that the Landlord is a fit and proper person to act in that capacity.

One of the strategic priorities in our Homelessness Strategy is to prevent homelessness by maximising available accommodation across all sectors. We will continue to work with landlords in the private rented sector to provide accommodation for applicants who are homeless, but will ensure that landlords are fit and proper, properties are of a satisfactory standard and meet health and safety standards, properties are in the right location to meet the needs of the household, and that rent payments can be covered.

Housing Register and Allocations

The Localism Act 2011 introduced new freedoms for local authorities to determine how they allocate social housing. Local authorities can now set their own priorities for allocations taking into account local needs and objectives, whilst continuing to give priority to those in the 'reasonable preference' categories.

North East Derbyshire District Council has reviewed its Allocations Policy to take account of the recent changes. Registered Providers with stock in the district have been consulted on the revised policy.

Succession

Changes have been made to succession rights on new tenancies so that only the spouse or civil partner who occupies the property as their only or principal home at the time of the tenant's death can automatically succeed to the tenancy, and the tenancy can only be passed on once. **Also alternative properties can be offered for the succession to free up family accommodation or make best use of housing stock.** Local authorities and Registered Providers are able to include additional contractual succession rights within their tenancy terms if they wish to do so.

The Council will be flexible in its approach to succession rights, and the needs of any **remaining family relation living in the property for at least 12 months, each case will be assessed in its own right.**

Successions to a fixed term tenancy will only be for the remainder of the life of that tenancy, and will be subject to review as with any fixed term tenancy as outlined above.

4.4 Monitoring and Reviewing the Tenancy Strategy

We will consider the content of the Tenancy Strategy and the effect on tenants in the district by monitoring:

- the number of fixed term tenancies issued, their duration and type of household
- the number of Affordable Rent properties in the district, and the level of rent charged

- homelessness offers into the private rented sector
- housing market changes and affordability
- rent levels across different tenures
- the impact of welfare reforms

The Tenancy Strategy will be reviewed at least every five years in line with the requirements of the Localism Act 2011. The Tenancy Strategy may be reviewed more frequently than this as a result of monitoring, further consultation and any changes in legislation.

4.5 Registered Provider Tenancy Policies

The tenancy policies produced by Registered Providers will be found on their website, or on application.

Please contact the Strategic Housing Team at North East Derbyshire District Council, telephone 01246 231111, for contact details of Registered Providers with stock in the district.

5. Responsibility for Implementation

The Council's Housing strategy team.