

Report to Stronger Communities Select Committee

Date of meeting: 1 March 2022

Portfolio: Housing Services (Councillor H Whitbread)

Subject: Review of the Tenancy Policy

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Recommendations/Decisions Required:

- (1) That the Committee considers the review of the current Tenancy Policy
- (2) That the Committee recommends to Cabinet the proposal for two amendments to be made to the terms of the current policy that reflect the Council's statutory obligations
- (3) To renew the Tenancy Policy for the period 2022-2027
- (4) To approve the publication of the draft refreshed Tenancy Policy 2022 -2027 at Appendix 1

Executive Summary:

As a stockholding Local Housing Authority Epping Forest District Council has a statutory duty to publish both a Tenancy Strategy or framework (setting out the matters to which the registered providers of social housing within its district are to have regard when formulating their tenancy policies), and a Tenancy Policy with regards to its own stock.

The current Tenancy Policy is due for review by July 2022; the same calendar year as the Housing Allocations Scheme, the Homelessness and Rough Sleepers Strategy, and the overarching Housing Strategy.

A review of all four strategies and policies commenced in May 2021. The draft Tenancy Policy is being presented to Committee with two proposed amendments to take account of legislative changes along with the draft Allocations Scheme and draft Homelessness and Rough Sleeping Strategy for the same 5-year period.

The proposals for the overarching Housing Strategy are due to be presented to Committee in July 2022.

Reasons for Proposed Decision:

To enable the Council to publish the refreshed Tenancy Policy 2022-2027

Other Options for Action:

- (i) Not to recommend renewing the Tenancy Policy without making amendments
- (ii) To recommend changes to the draft Tenancy Policy (subject to further consultation where appropriate)

Report:

1. The Tenancy Policy must incorporate:
 - a. the kind of tenancies that will be granted
 - b. the circumstances in which a tenancy of a particular kind will be granted
 - c. where tenancies are granted for fixed terms, the lengths of the terms
 - d. the circumstances in which a further tenancy will be granted upon expiry of the existing tenancy.
2. EFDC adopted the West Essex Tenancy Strategy on 22 October 2012 and published Version 1 of the current Tenancy Policy on 27 July 2015. The Tenancy Policy was originally due for review in July 2020.
3. In July 2020 the Portfolio holder for Housing agreed minor changes to the Tenancy Policy including the extension of 2-year tenancies to 10-year tenancies, and to postpone the full periodic review of the policy by two years to July 2022 (to take account of the impact of Covid 19 on the consultation process).
4. The full review of the Tenancy Policy began in May 2021 along with simultaneous reviews of the Housing Allocations Policy, the Homelessness and Rough Sleeping Strategy and the overarching Housing Strategy (as there are a number of interdependencies and they are all due for renewal in 2022). A series of consultation events took place between July 2021 and August 2021 including bitesize briefing sessions with Members of the Council, residents, professional partners, other statutory services and staff, and an on-line survey which closed on 30 August 2021.
5. The initial stage 1 consultation found the majority of respondents thought that EFDC should continue to issue 10-year fixed term tenancies for general needs applicants. Half of the respondents said some tenancies should be longer or shorter than 10 years depending on the household circumstances. Typically suggesting longer or lifetime tenancies for elderly or vulnerable people, and shorter tenancies for families who may eventually be able to afford to buy or downsize as their children move out.
6. A Government Equalities Impact Assessment in 2016 found that nationwide far fewer councils and housing associations had introduced fixed term tenancies than had been anticipated. A recent desk-top analysis of councils in Essex found that of the other stockholding councils Castlepoint, Colchester, Basildon and Harlow are issuing lifetime tenancies rather than flexible tenancies. And whilst Rochford is not a stockholder it has reported that many of the Registered Providers operating in the area have ceased issuing flexible tenancies because of the disproportionate burden of the review process on their resources.
7. To date none of the 10-year fixed term tenancies in EFDC have reached the point of review. The first reviews are due in October 2022 (six months prior to the first fixed term tenancies coming to an end).

8. Between the time of preparing the draft recommendations for APG and preparing the report for Executive Briefing a letter was issued by the Department of Levelling Up Housing and Communities (DLUHC) highlighting Section 79 of the Domestic Abuse Act 2021 which places new obligations on social landlords to ensure that, where they are offering a new tenancy to existing lifetime social tenants as a result of domestic abuse, such tenancies are granted on a lifetime basis.
9. The DLUHC has updated the Statutory Guidance Improving Access to Social Housing for Victims of Domestic Abuse to say;

'The lifetime tenants who suffer domestic abuse will retain lifetime security if they are granted a new tenancy by a local authority for reasons connected with the abuse.'

This protection applies to victims who have a lifetime tenancy, or victims who have had a lifetime tenancy in the past and have fled their social home to escape domestic abuse.

The protection also applies to victims of domestic abuse who have a joint lifetime tenancy and who wish to continue living in their home after the perpetrator has left.

The provisions apply to lifetime tenants of local authorities and private registered providers of social housing.'

10. It is recommended that point 3.5 of the Tenancy Policy be inserted to reflect this requirement (Appendix 1).
11. The current Tenancy Policy makes reference to the Race Relations Code of Practice in Social Housing which has been superseded by the Public Sector Duties placed on the Council under the Equalities Act 2010. It is recommended that point 13 of the Tenancy Policy is updated to reflect this (Appendix 1).

Resource Implications:

None

Legal and Governance Implications:

Section 79 of the Domestic Abuse Act 2021 came into force on 1 November 2021. It places new obligations on social landlords to ensure that, where they are offering a new tenancy to existing lifetime social tenants as a result of domestic abuse, such tenancies are granted on a lifetime basis.

Legal services have reviewed the report and confirmed that they have no comments or suggested amendments.

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

The recommendations within this review have been subject to a comprehensive public consultation exercise which included; bite-size briefings, webinars, workshops, surveys, on-line questionnaires, small meetings and one to one conversations.

In total 430 people were directly invited to participate in the consultation including:

- Council tenants, leaseholders and residents
- Partner agencies and community groups with an interest in housing
- Private registered providers of social housing
- EFDC staff and other statutory services
- Members of the Council
- Clerks of parish and town councils to forward to their respective elected members
- District, borough and city councils in the county

The consultation did not include reference to the two proposed changes that are recommended in this report.

A full report on the outcome of the consultation can be found at Appendix 2

Background Papers:

None

Risk Management:

None

Appendix 1 Draft Tenancy Policy 2022 – 2027 Attached

Appendix 2 Consultation Report – Attached

Appendix 3 Equalities Impact Assessment – To follow