

REPORT TITLE: TENANCY POLICY

30 JANUARY 2018

REPORT OF PORTFOLIO HOLDER: LEADER WITH PORTFOLIO FOR HOUSING

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WARD(S): ALL

PURPOSE

This report provides an overview and seeks approval of the Council's Tenancy Policy 2018-2023. The Tenancy Policy forms part of the Council's overarching Tenancy Strategy 2018-2023 as set out in CAB3113(HSG). It sets out the Council's approach to tenancy management and the types of tenancy we offer.

This report also seeks to provide an update on the legislative position of Fixed Term Tenancies (FTT) following the publication of the government's social housing green paper – a new deal for social housing on 14<sup>th</sup> August 2018.

RECOMMENDATIONS:

1. That the Tenancy Policy 2018-2023 is approved (Appendix 1).

## IMPLICATIONS:

### 1 COUNCIL STRATEGY OUTCOME

- 1.1 The Council's Strategy 2018-2020 recognises delivering high quality housing options for our residents is vital and that it is important to have the right mix of housing within the District. It further acknowledges that people's health is key to enjoying a high quality of life and strives to improve the community's health and happiness. The Council's Tenancy Policy has due regard to these strategic outcomes.

### 2 FINANCIAL IMPLICATIONS

- 2.1 None.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Council has a duty to publish its Tenancy Policy which sets out how it will operate and deliver the requirements of the Council's overarching Tenancy Strategy 2018-2023.

### 4 WORKFORCE IMPLICATIONS

- 4.1 No additional implications.

### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 There will be no change to how the Council's housing stock is currently managed.

### 6 CONSULTATION AND COMMUNICATION

- 6.1 Members have previously been briefed on the Housing and Planning Act 2016 and more recently on the social housing green paper – a new deal for social housing. Council tenants were briefed on the principals of Fixed Term Tenancies through a workshop at the Tenants Conference in February 2018. The Housing Service has also consulted with other local registered providers regarding potential changes to their Tenancy Policies following the August 2018 publication of the social housing green paper.

### 7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 None.

### 8 EQUALITY IMPACT ASSESSEMENT

- 8.1 Not required, as no change to current policies and practices are being proposed.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None required.

10 RISK MANAGEMENT

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<p><i>Property</i></p> <p><i>Minimal risk of future under occupation by offering secure tenancies and not introducing FFTT or the potential income generating 'Pay to Stay' tenancy option.</i></p>	<p>Published Tenancy Policy monitored and reviewed as part of normal service delivery to ensure best use of housing stock. Low numbers of tenants within the 'pay to stay' income bracket to significantly reduce available allocations to benefit reliant/lower income tenants for social rental properties.</p>	<p>Opportunity to positively enhance the council's landlord reputation and best practice approach. Maintaining sustainable and cohesive communities for the future.</p> <p>Meeting the aims of the governments Green Paper – 'a new deal for social housing'</p>
<p><i>Community Support</i></p> <p><i>Minimal risk of future under occupation by offering secure tenancies and not introducing FFTT or the 'Pay to Stay' tenancy option.</i></p>	<p>Published Tenancy Policy to support tenancy sustainment. Continuing to offer life time tenancies with an incentive scheme to reduce under occupation. Low numbers of tenants likely to be within the 'pay to stay' income bracket to significantly reduce rental income by not introducing this tenancy option.</p>	<p>Providing the right range of tenancy options to maintain sustainable and cohesive communities though best practice.</p> <p>Meeting the aims of the governments Green Paper – 'a new deal for social housing'.</p>
<p><i>Timescales</i></p> <p><i>No risk</i></p>	<p>Tenancy policy will be delivered as part of normal business and within current existing staffing resources.</p>	
<p><i>Project capacity</i></p> <p><i>No risk</i></p>	<p>Tenancy policy will be delivered as part of normal business and within current existing staffing resources.</p>	
<p><i>Financial / VfM</i></p> <p><i>Minimal risk of not introducing the potential generating income of the 'Pay to Stay' tenancy</i></p>	<p>HRA Budget will continue to support the role of the Tenancy Policy through service budget line and rental income streams. Low numbers of tenants</p>	<p>Opportunity to positively enhance the council's landlord reputation and best practice approach. Maintaining sustainable and cohesive communities</p>

<i>option.</i>	likely to be within the 'pay to stay' higher income bracket to significantly reduce rental income by not introducing this potential tenancy option.	for the future.
<i>Legal</i> <i>No risk.</i>	Published Tenancy Policy legally required to set out and support how as a social housing landlord we will operate and deliver the requirements of the Council's overarching Tenancy Strategy.	Opportunity to positively enhance the council's landlord reputation by offering secure life time tenancies. Maintaining and providing sustainable and cohesive communities.
<i>Innovation</i>		
<i>Reputation</i>		Opportunity to positively enhance the council's landlord reputation and best practice approach. Providing sustainable and cohesive communities for the future
<i>Other</i>		

## 11 SUPPORTING INFORMATION:

### **Background**

- 11.1 The Localism Act 2011 brought about a raft of changes to the regulatory framework for social housing. This included giving local authorities and other registered providers of social housing increased flexibility in the types of tenancies they grant and the rents they can charge.
- 11.2 In January 2013 the Council published its Tenancy Strategy, which it was required to do under the Localism Act, setting out its expectations for all social housing providers in the district in relation to rent and tenure reform. This strategy has now been refreshed in light of the numerous changes to Government policy and new legislation since the documents inception as outlined in CAB3113.
- 11.3 The Localism Act also brought about the revised Tenancy Standard which states that all social housing providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants and demonstrate how their lettings:

- a) Make best use of available housing
- b) Are compatible with the purpose of the housing
- c) Contribute to the local authorities' strategic housing function and sustainable communities.

11.4 The Housing Service has a vast number of policies and internal procedures which govern what tenancies are offered and how they are managed. The Tenancy Policy aims to bring the key documentation together, providing both Council tenants and those on the Housing Register who would like to become tenants with a clear overview of our approach to letting our homes and managing tenancies.

#### **Localism reforms - types of tenancies available**

11.5 The Tenancy Policy sets out the types of tenancy that the Council can offer and the criteria determining what will be granted dependant on the tenant/applicants circumstances.

11.6 Currently introductory and secure tenancies are granted for all new build and re-lets. In addition to these more traditional and secure types of tenancy it has been possible to offer flexible fixed term tenancies (FFTT) since April 2012. Consideration was previously given to the potential benefits and drawbacks of offering this new tenure following its introduction. At that time the Housing Service, in keeping with the majority of social housing landlords, did not implement FFTT.

11.7 More recently, following the Housing and Planning Act 2016 which introduced further new regulations including provisions for phasing out lifetime tenancies and preventing local authorities from offering secure tenancies for life in most circumstances, the Council has been waiting for the promised statutory guidance setting out the categories and factors to be taken into account when granting a tenancy and reviewing it at the end of the fixed term before implementing FFTT. This legislation has still yet to be enacted and guidance has not been issued to date.

11.8 On the 14<sup>th</sup> August 2018, the Government published a social housing green paper – a new deal for social housing, in which it set out a proposed strategy for reforming social housing. Under the core theme of 'expanding supply and supporting home ownership' the Government proposes not to implement the plans to require councils to offer all new tenancies on a fixed term at this time. The green paper cites a 'growing recognition of the importance of housing stability for those who rent' and that 'many residents spoke about the benefits of security in their tenancies, saying they created strong, supportive communities, and particularly enabled people with vulnerabilities to thrive'. Instead Local Authorities will be able to use FFTT at their discretion.

11.9 In light of this announcement, the Tenancy Policy confirms that the Council will not be implementing FFTT at this time, providing Council tenants with

greater stability in terms of their housing, something which is particularly valued by those who are vulnerable as the security given by their home can be instrumental in providing them with the basis of rebuilding their lives. Other determining factors for the preference in continuing to offer secure tenancies for life rather than FFTT include:

- *The sustainability of the community* - there is a risk that the use of FFTT could undermine the stability of communities by increasing the transience and social exclusion of neighbourhoods leading to the need for increased housing management resources.
- *The lack of alternative housing options* - there is a significant lack of alternative affordable and appropriately sized accommodation in Winchester to meet housing needs. The introduction of FFTT does not address the underlying structural problem of the shortage of housing options offered at a price that households can afford.
- *The cost of resourcing* - operating FFTT can be a highly resource intensive process due to the need to conduct regular tenancy reviews, often to confirm that there is no change in a household's circumstances. The DCLG estimated that this is at between £35 million and £74 million over 30 years.
- *Stigmatise the social housing sector* - introducing an income-based means test as a basis for ending a tenancy will lead to social housing becoming more residualised and further stigmatise those living in the sector.
- *The condition of the accommodation* - tenants maybe less inclined to look after their homes due to the lack of security and the loss of the right to make improvements and be compensated for them.
- *The purpose of the accommodation* - it is possible that making tenure dependent on proof of the continuing need for social housing could disincentivise tenants from improving their circumstances, e.g. from seeking or taking up work.

11.10 Following the August 2018 Government announcement, the Council has also consulted other local housing providers, many of whom have implemented FFTT. They have confirmed they are now rethinking their position with a view to reverting back to offering lifetime tenancies and are consulting their boards on the merits of offering FFTT. This follows L&Q, a substantial housing provider in the south east, formally announcing in September 2018 that they would be transferring all of their 8,500 fixed-term tenants to lifetime tenancies as they felt they were a 'crude tool' and cause 'unnecessary worry' for residents.

11.11 The Tenancy Policy also highlights that although the Council has not adopted FFTT it still achieves a number of the core strategic objectives cited as the benefits of this tenure type through other means. These include:

- *Make best use of housing stock* - the Council has operated an incentive scheme for tenants wishing to move to smaller accommodation for many years. There has been consistent take up of the scheme over recent years with 46 downsizing in 2017/18, 48 in 2016/17, 48 in 2015/16 and 50 in 2014/15. More recently in July 2018 the incentive was increased to £2,500 for those households moving to a property meeting their assessed bedroom need and to date 24 have moved to smaller accommodation this year. The downsizing scheme will be reviewed later this year and a further paper will be brought to Cabinet Housing with potential options for the scheme.
- *Encourage tenants to explore other housing options* - already each year a proportion of Council tenants willingly give up their tenancies to move to the private rented sector or another form of tenure such as low-cost home ownership. In 2017/18, 37 tenants ended their secure tenancy with the Council for this reason, 50 in 2016/17 and 27 in 2015/16. Housing teams offer advice on accessing accommodation in the private rented sector and the Help to Buy South is promoted on the Council's web site.
- *Support tenants in their wider aspirations* - Housing and Benefit and Welfare teams provide assistance to tenants who wish to improve their circumstances, for example in gaining employment. In October 2018 the Council organised a Jobs Fair in conjunction with other housing providers and partner agencies to help improve employment opportunities for tenants.
- *Support tenancy sustainment* - a number of tenancy sustainment services are provided including in-house services such money and benefits and general tenancy support and also joint working with external partners to provide other specialist support services, for example for those tenants with more complex needs.

These benefits are in addition to those which are achieved through the Council's Scheme of Allocations which restricts the housing register to those applicants who have a single or joint gross household income of less than £60,000 per annum and assets and/or savings of less than £16,000 and also gives a high housing priority, Band 2, to those wanting to downsize to smaller accommodation.

### **Localism reforms – types of rent available**

11.12 The Tenancy Policy also sets out the rents that the Council will use and in which circumstances it will apply these. It confirms that all new build

properties will be let at an affordable rent which can be up to 80% of local market rents and that all other Council properties will be charged a social rent.

11.13 Since 2012 the Council has had discretion to charge higher rents to tenants with an income of £60,000 or more a year. It has been argued that high income families should not be paying social rents (typically half the market rent) when they could afford to pay more. The scheme is known as 'Pay to Stay' and in November 2016 the Government decided to abandon its proposal of a mandatory scheme.

11.14 It is unclear how many social landlords have implemented this approach although there are examples where this is happening, particularly in the London Boroughs and surrounding regions.

11.15 The main reasons for not implementing pay to stay schemes are:

- *Administration* - the difficulty for landlords to gather information and monitor tenants' incomes, including responding to changes in employment/income
- *Increased arrears* - if tenants fail to pay their higher charges this would result in increased arrears levels
- *Affordability* - affected tenants could face substantial rent increases
- *Potential work disincentive effect* - tenants could be put off improving their circumstances due to concerns over increased rents making it not financial viable
- *Residualisation of social housing* - as higher earning tenants are incentivised to move out

11.16 Due to the restrictions on earnings and capital limits for accessing social housing in Winchester it is likely that the number of high earners is small or likely to be small, see Appendix 2 for details on the earnings of those on the Housing Register. Although we do not have income details for all of our tenants, we do know that for those living in our general needs properties 47% are in receipt of Housing Benefit and therefore will not meet the income threshold.

11.17 In July 2014, the Government estimated that the number of social housing tenants who could qualify as high income earners to be as follows:

Income threshold	LOW estimate of number of households	HIGH estimate of number of households
£100,000	1,000	5,000
£80,000	3,000	8,000
£60,000	11,000	21,000



Admittedly these figures are several years old, however they are for the whole country which suggests that for our district, the opportunity for charging higher rents to our own tenants will be extremely low.

- 11.18 It is therefore arguable that the financial benefits of operating FFTD to capture high income earners is negligible when balanced against the resources that would be required to implement and manage such a scheme.

### **Tenancy management approach**

- 11.19 Most of the Tenancy Policy is concerned with how tenancies are managed by the Housing service through the lifetime of the tenancy, from how we conduct our sign ups to how a tenancy can be ended. The Tenancy Policy provides an overview of key management functions and should be read in conjunction with the Tenant's Handbook and other key documents such as the Hampshire Home Choice Allocations Framework and the Winchester Scheme of Allocation. It is hoped that the Tenancy Policy will provide current and future Council tenants with a clear overview of our approach to tenancy management and their rights and responsibilities as tenants of the Council.

### **Conclusion**

- 11.20 The Tenancy Policy reflects the objectives of the Council's Tenancy Strategy; to provide access to good quality housing options through a variety of tenure types, affordability options and homeownership whilst at the same time ensuring best use is made of housing stock and assets. It clearly sets out the Council's approach to letting its homes in a fair, transparent and efficient way.
- 11.21 The Council continues to offer the most secure form of accommodation for its tenants whilst still achieving many of the underlying principals of FFTT. It is felt that this approach is likely to better meet the needs and aspirations of our tenants and avoid many of the negative consequences of FFTT. By continuing to invest in softer approaches to achieve better use of stock, the Council will achieve its strategic objectives of having the right mix of housing in the district whilst continuing to strive to improve the health and happiness of its community.

## **12 OTHER OPTIONS CONSIDERED AND REJECTED**

- 12.1 None as a current and relevant Tenancy Policy is a requirement for social housing providers.

### **BACKGROUND DOCUMENTS:-**

#### **Previous Committee Reports:-**

CAB2424(HSG) Tenancy Strategy for the Winchester District 10<sup>th</sup> December 2012

Other Background Documents:-

Winchester City Council Strategy 2018-2020:

<http://www.winchester.gov.uk/about/strategies>

House of Commons Library, Briefing Paper Number 7173, 2 September 2018

<http://researchbriefings.files.parliament.uk/documents/CBP-7173/CBP-7173.pdf>

Ministry of Housing, Communities and Local Government

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733605/A\\_new\\_deal\\_for\\_social\\_housing\\_web\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf)

APPENDICES:

Appendix 1 Tenancy Policy

Appendix 2 Hampshire Home Choice - Winchester City Council Income Analysis