

MUNICIPAL YEAR 2012/2013 REPORT NO. 139A

MEETING TITLE AND DATE:

Council
30 January 2013

REPORT OF:

Director of Health,
Housing and Adult Social
Care

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Agenda – Part: 1

Item: 9

Subject: A Tenancy Strategy for Enfield

Wards: All

Key Decision No: KD3527

Cabinet Member consulted:

**Cllr Ahmed Oykenor, Lead Member for
Housing and Area Improvements**

1. EXECUTIVE SUMMARY

- 1.1 This report brings Enfield Council's Tenancy Strategy 2013-2018 for approval. There is a statutory requirement under the Localism Act 2011 for local authorities to have this in place by January 2013.
- 1.2 Enfield's Tenancy Strategy sets out a range of issues that Registered Providers (Housing Associations and Enfield Homes) with social rented housing stock in Enfield should have regard to when formulating their Tenancy Policies. It reflects the Council's position that longer term tenancies are the best approach for addressing housing need and building strong neighbourhoods and sustainable communities.
- 1.3 Enfield's draft Tenancy Strategy sets out:
 - The legal and regulatory context for developing the Strategy
 - Enfield's objectives for social housing
 - The local context for allocating social rented homes in Enfield
 - Who social housing is for
 - Enfield's expectations regarding Tenancy Policies developed by Registered Providers
 - Links between Tenancy Policies and Rent Setting
 - Outcomes from consultation
 - Requirements for keeping the Tenancy Strategy and Tenancy Policies developed by Registered Providers under review

2. RECOMMENDATIONS

- 2.1** To approve Enfield's new Tenancy Strategy
- 2.2** To note the requirement for a Tenancy Policy to be developed for Registered Providers with housing stock in the borough, including Enfield Homes

3. BACKGROUND

3.1 The Legal and Regulatory context for Enfield's Tenancy Strategy

3.1.1 The Localism Act 2011 places a duty on strategic housing authorities to prepare and publish a Tenancy Strategy by 14th January 2013. All Registered Social Housing Providers with property in Enfield must have regard to this strategy, when they develop and / or review their Tenancy Policies. A list of Registered Providers is set out in Appendix 1 of the Tenancy Strategy.

3.1.2 The requirement to develop a Tenancy Strategy is in response to the new Affordable Rent Tenancy model, which enables registered providers to grant new tenancies with rents set at up to 80% of market rents, in addition there is provision for the new flexible tenancy, which registered providers can issue for a minimum fixed term of two years.

3.1.3 Individual Tenancy Policies developed by each Registered Social Housing Provider will explain what types of tenancy they will use, how they intend to use fixed term tenancies, under what circumstances and to whom these will be offered and how these will be renewed or brought to an end.

3.1.4 Registered Social Housing Providers also have obligations they must meet in relation to tenure under the terms of the Housing and Community Agency's Tenancy Standard. They must offer tenancies that are:

- Compatible with the purpose of the accommodation.
- Meet the needs of individual households
- Compatible with sustainability of the community
- Making efficient use of their housing stock

3.1.5 Enfield's Tenancy Strategy is therefore a broad statement of the objectives and aims of the Council in relation to tenancies, aims and objectives that will reflect the local circumstances existing in Enfield. Registered Social Housing Providers are not obliged to tailor their policies in line with these broad objectives and indeed many will have policies set nationally and may have only limited flexibility locally – but they are obliged to have regard to the local authority strategy.

3.1.6 The Localism Act also concerns itself with other closely related matters, including homelessness and allocations, and local authorities are obliged to

consider their Homelessness Strategy and their Allocations Policy as they develop their Tenancy Strategy.

3.1.7 It should be stressed that existing social tenants are broadly protected from any changes made to tenancy length and will retain their existing life time tenancy in almost all circumstances, including when they transfer to another social tenancy.

3.2 Enfield's Expectations regarding Tenancy Policies and Rent Levels

3.2.1 Enfield Council considers that long term tenancies are the best approach in meeting local housing needs and in supporting sustainable neighbourhoods and communities.

3.2.2 Section 5 of Enfield's Tenancy Strategy refers to the supply and demand position regarding social rented homes in Enfield. When compared with other London Boroughs, Enfield has a serious shortage of social rented homes for letting each year, particularly homes with three or more bedrooms. Demand for homes is high with an increasing proportion of existing social rented tenants and new applicants needing additional care and support in the future and the requirement for longer term security provided by a Council or Housing Association home.

3.2.3 Many Registered Providers, mainly housing associations, have indicated that will make use of flexible tenancies and in these circumstances the Council expects longer term tenancies to be granted for reasons set out in the Strategy. Where short term tenancies are used, the Council expects Registered Providers to clearly explain why these short term tenancies are to be used and the procedures surrounding their renewal or ending. The prevention of homelessness remains an important local priority. Therefore, the Council expects fixed term tenancies to be renewed, unless there is a significant change in circumstances and that tenants should be advised about renewal in a timely way.

3.2.4 Section 7.6 of the Tenancy Strategy considers best practice where a Registered Provider has decided not to renew a fixed term tenancy, including following their own published policy, acting within Article 8 of the European Convention on Human Rights (incorporated by the Human Rights Act 1998), avoiding 'blanket' policies for example for tenancy breaches and their responsibilities in preventing homelessness and helping households with support needs. Registered Providers have a duty to offer advice to those facing homelessness through the ending of a tenancy and indeed the courts are likely to require this to be demonstrated.

3.2.5 Section 8 of the Tenancy Strategy reminds Registered Providers of the Council's expectations that they consider local needs, incomes and affordability of rents when they set rents and decide whether and to what extent to use the opportunity to use Affordable Rent Tenancies and offer some homes at rents up to 80% of market rents.

3.3 Consultation on Enfield's draft Tenancy Strategy

3.3.1 Mayor of London

The Mayor of London is a statutory consultee in relation to draft Tenancy Strategies and requested a period of 8 weeks to assess the strategies against the key themes from the London Housing Strategy (namely increasing supply of affordable housing, promoting mixed and balanced communities, tackling need, enhancing mobility and choice and improving quality).

The Mayor provided feedback in a letter dated 12th September 2012, broadly supporting the direction of the strategy but suggesting further consideration of the benefits of flexible tenancies in making the best use of large homes to meet the needs of larger households and of the positive contributions through employment or volunteering made by some (specifically in making decisions on the renewal of fixed term tenancies). These comments were considered when drafting Enfield's revised Tenancy Strategy.

3.3.2 Consultation with Registered Housing Providers

45 Registered Providers (housing associations and Enfield Homes) operating in Enfield were invited to respond to a consultation survey and provide comments on Enfield's draft Tenancy Strategy. A number provided detailed and thoughtful responses. A further request for information has helped to broaden our knowledge about where local Registered Providers were with their Tenancy Policies. Overall we received responses from 11 registered providers and most seem likely to make use of the power to offer flexible tenancies to a greater or lesser extent. A list of Registered Providers (Housing Associations) operating in Enfield and information about the Housing Stock they manage can be found at Appendix 1.

Officers at Enfield Homes, the Council's Arms Length Management Organisation, provided helpful comments and questions that will be considered during the process of developing a Tenancy Policy for homes owned by the Council.

3.3.3 Public consultation

Residents were invited to complete a survey on line and two community events were used to obtain responses face to face. Although the number of survey responses received overall was small - at 28 - and responses are not necessarily reflective of the wider community views, they included thoughtful ideas on issues that are necessarily complex.

More than half of respondents were happy to consider the use of flexible tenancies in some circumstances as long as vulnerable residents are protected – low incomes and housing benefit caps were cited in a number of responses.

A summary of the survey questions and responses will be made available in the Members' library and on the Council's website.

3.4 Tenancy Policies - developing a Tenancy Policy for the Council's own Housing stock

3.4.1 Registered Providers are responsible for developing Tenancy Policies which have regard to Enfield's Tenancy Strategy. Many Registered Providers (Housing Associations) are independent organisations operating across more than one local authority boundary and their duty is to have regard to the Tenancy Strategy, as well as those produced by other local authorities

3.4.2 The Council is responsible for developing a Tenancy Policy to be implemented by Enfield Homes. It will follow the general principles in Enfield's Tenancy Strategy and reflect the Council's view that longer term tenancies are the best approach for addressing housing need and building strong neighbourhoods. The process of drawing up the written policy will allow for an opportunity to review the Council's Tenancy Agreement and also to consider issues arising from the new Allocations Scheme and the changing requirements of the major regeneration programme now in place for housing tenants in Enfield.

4. ALTERNATIVE OPTIONS CONSIDERED

Publication of a Tenancy Strategy is a statutory requirement.

5. REASONS FOR RECOMMENDATIONS

Enfield's Tenancy Strategy provides Registered Providers with a broad statement of the objectives and aims of the Council in relation to tenancies, aims and objectives that will reflect the local circumstances existing in Enfield.

It is vital that the strategic direction provided to housing providers on the use of fixed term tenancies is endorsed by the Council. The policies developed by housing providers will influence key corporate objectives, including sustainable communities.

During 2013, a Tenancy Policy for the Council's own housing stock will be developed in partnership with Enfield Homes, in line with this Tenancy Strategy.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

The Tenancy Strategy itself will not lead to any specific costs falling on the Council. However, it does compel the Council to implement a Tenancy Policy relating to the letting of its own homes. Any financial implications arising as a result of that Tenancy Policy will be reported at that stage. Other registered providers are only required to have regard to Enfield's Tenancy Strategy and although there may be

financial implications for these providers, it is unlikely to have a direct impact on the Council's financial position.

6.2 Legal Implications

Section 150 of the Localism Act 2011 requires local authorities to prepare and publish a tenancy strategy by 14th January 2013. A tenancy strategy is a document outlining what Registered Providers (RPs) (formerly Registered Social Landlords) of social housing are to "have regard to" when formulating their policies relating to:

- the types of tenancies they grant,
- the circumstances in which they will grant a tenancy of a particular kind,
- the length of fixed term tenancies, and
- the circumstances under which a further tenancy may or may not be granted at the end of the fixed term.

Section 150 (5) requires a local authority to keep its tenancy strategy under review.

S. 105 (7) provides that "... a local housing authority must—(a) make a copy of everything published under this section available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and (b) provide (on payment if required by the authority of a reasonable charge) a copy of anything so published to any member of the public who asks for one."

Section 151 of the Act sets out the consultation requirements prior to producing the tenancy strategy or when modifying it reflecting a major change in policy; the report sets out how the Council has complied with this section. The report also sets how, pursuant to s.151, the Council has complied with the matters that it is required to have regard to when preparing its strategy.

The tenancy strategy takes into account Article 8 of the Human Rights Act 1998 and the principles of the Equality Act 2010.

Part 2 4.1 (a) of the Council's constitution requires all "big decisions" about Council Services and functions and the policies and strategies within which they operate to be made by full Council. The approval of the Tenancy Strategy is a "big decision" as defined by the Constitution.

6.3 Property Implications

None

7. KEY RISKS

There are risks associated with a failure to have statutory strategies in place in a timely way. The risk of legal or other challenges to this strategy is low.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

Enfield's Tenancy Strategy encourages all Registered Providers with social housing stock in Enfield to undertake an Equalities Impact Assessment when developing their Tenancy Policies

8.2 Growth and Sustainability

Enfield's Tenancy Strategy encourages Registered Providers to make best use of their housing stock and develop open and transparent Tenancy Policies that meet local priorities and are sustainable .

8.3 Strong Communities

Enfield's Tenancy Strategy encourages Registered Providers to use long term tenancies for addressing local housing need and building sustainable communities.

9. EQUALITIES IMPACT IMPLICATIONS

Enfield's Tenancy Strategy makes clear the Council's expectation that all Registered Social Housing Providers undertake an Equalities Impact Assessment (or equivalent) as they develop and / or review their Tenancy Policies. The Council has recently completed an in- depth assessment of the impact on equalities of the new Allocations Scheme and will complete another Equalities Impact Assessment of the Tenancy Policy as it is developed for the letting of the Council's own stock during 2013.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

Enfield's Tenancy Strategy will be kept under review and adjusted as required to take into account Enfield's Housing Strategy, implementation of the Council's new Housing Allocations Scheme, the Council's Homelessness Strategy, the Council's own substantial regeneration plans and other relevant housing strategies and policies. Enfield's Tenancy Strategy provides guidance to registered housing providers and enables the Council to have an overview of tenancy policies in used in the borough.

All Registered Providers are expected to review their existing Tenancy Policies in light of this Tenancy Strategy and where a Policy has not been written, develop one in light of this Strategy. Time lines for doing this are set out in the Strategy. Registered Providers operating in Enfield are expected to review their Tenancy Policies at 5 year

intervals, and have regard to Enfield's current or refreshed Tenancy Strategy.

There is a requirement in the Strategy for Registered Providers to accurately report and record all lettings information, including tenure, on the Government's agreed tenancy data recording system (e.g., CORE) to enable efficient monitoring and review of lettings and tenancy issues. This is important so that Enfield can develop appropriate housing policies to address local housing need

11. PUBLIC HEALTH IMPLICATIONS

This Strategy sets out the Council's position that longer term tenancies are the best approach for addressing housing need and building strong neighbourhoods. Longer term tenancies will make an important contribution to the better health and wellbeing of new and existing tenants allocated social rented homes in the borough in accordance with the Council's Allocations Scheme.

Background Papers

None