

## London Borough of Enfield

### Portfolio Report

Report of: Director of Housing and Regeneration

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**Subject:** Housing Tenancy Policy

**Cabinet Member:** Cllr. George Savva

**Executive Director:** Sarah Cary, Place

**Ward:** ALL WARDS

**Key Decision:** KD 5553

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### Purpose of Report

1. This report introduces a new Council Housing Tenancy Policy following an earlier approved Tenancy Management Strategy 2022-2025.
2. The Housing Tenancy Policy sets out in detail how the Council will manage tenancy related matters.

### Proposals

3. Approve the new Housing Tenancy Policy.
4. Approve the offer of Flexible fixed term tenancies in certain circumstances including for specially adapted homes, homes with four bedrooms and above and on exception grounds for leaseholders where the Council as freeholder, requires vacant possession of the building.
5. Approve changes to how the council agrees to non-statutory successions of tenancies which better meet the increased housing demand in the borough.
6. Aligns the Housing Tenancy Policy with the Secure Tenancies (Victims of Domestic Abuse) Act 2018 in ensuring victims of Domestic Abuse are supported.

### Reason for Proposal(s)

7. The new Tenancy Policy 2022 will replace the previous Tenancy Policy of 2015 and meets the council's requirement under the Localism Act 2011.

8. The Tenancy Policy describes how the Council creates, changes and ends tenancy agreements. The Policy ensures the Council follows current legislation and enables tenants to exercise their rights, as set out in the tenancy agreement.
9. The Tenancy policy also sets out how we will make changes to existing tenancies, to better support tenants, ensuring tenants understand how they can make changes to their tenancy and explaining household members' right to succeed a tenancy and how this will be managed.

### **Relevance to the Council's Plan**

#### **10. Good homes in well-connected neighbourhoods**

The new housing tenancy policy stipulates that lifetime tenancies are the Council's preference except in certain circumstances. Fixed term tenancies can only be offered in certain circumstances and must be for at least 10 years with discretion for 5 years in other circumstances. This supports our commitment to create a place where anyone born in the borough has a home to grow up in, where they can choose to stay and benefit from living in the great city that is London.

#### **11. Safe, healthy and confident communities**

Providing tenants in social and affordable housing with lifetime tenancies unless in certain circumstances and tenancies of at least 10 years in all cases and providing clear information and advice so that tenants understand their rights and responsibilities, will support Enfield residents to live safe, healthy and confident lives in settled communities across the borough.

#### **12. An economy that works for everyone**

Providing tenants in social and affordable housing with lifetime tenancies unless in certain circumstances and tenancies of at least 10 years in all cases enables residents to settle in their community and access employment and skills opportunities. This takes away uncertainty about their future living situation, enabling stability for children's education and access to educational attainment opportunities as they enter adulthood

### **Background**

13. The Localism Act 2011 has given local authorities the power to influence how social housing is offered and managed in their respective local areas. The Council's tenancy strategy agreed in February 2022 set out the matters the Council and other registered providers of social housing were required to consider when developing tenancy policies.
14. An agreement was made under the terms of the new Tenancy Strategy that both the council and Registered Providers within the Enfield Council area should review their Tenancy Management Policy within 9 months of the new Tenancy Strategy being approved.

## **Main Considerations for the Council**

15. The purpose of the Tenancy policy is to set out how Enfield Council will issue tenancies to the social homes it owns and ensure their consistent management. The policy applies to Enfield Council tenancies only.
16. The policy supports the Council's vision for Enfield residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home.
17. The policy confirms that 'lifetime' tenancies are the Council's preference in social and affordable housing except in certain circumstances.
18. The policy introduces the use of Fixed Term tenancies of at least 10 years for larger homes and those that are specially adapted to enable residents to settle in their community and access employment and skills opportunities.
19. In addition to those circumstances set out at 18 above in exceptional circumstances, in order for the council to manage its strategic objectives, the Director of Housing and Regeneration may grant a fixed term tenancy of less than 10 years.
20. The policy describes how the council will manage Fixed Term Tenancies, how they may be reviewed, ended and how tenants can appeal against a decision to end a Fixed Term Tenancy.
21. To better support victims of Domestic Abuse, the Council will, in exceptional circumstances enable a joint tenant remaining in a property to be granted a replacement sole tenancy.
22. Where there is no statutory right to succeed to an Enfield Council Housing tenancy, in exceptional circumstances, the London Borough of Enfield Housing Team may grant a new tenancy to a tenant's family member. In order to make the best use of council stock the council has revised the policy to better reflect housing need.
23. This draft policy has been developed in accordance with the Localism Act 2011, [London Housing Strategy](#) and the Council's Housing and Good Growth Strategy (2020-2030), Preventing Homelessness and Rough Sleeping Strategy (2020 -2025), Housing Allocation Scheme, Council Plan 2020-2022 and Fairer Enfield Policy 2021 - 2025 found [here](#). Benchmarking with other boroughs has also been carried out.

## **Safeguarding Implications**

24. Lifetime tenancies remain the preferred approach for tenants of social and affordable housing to enable them to live safe, healthy, and confident lives in settled communities across the borough. In certain circumstances, a 10-year tenancy (previously 5 years) may be issued with a longer term encouraged for families with children aged 5 years and under or 10 years and under if the child is affected by special educational needs or disabilities. The approved

Tenancy strategy required that providers to comply with the Secure Tenancies (Victims of Domestic Abuse) Act 2018 and Homelessness Reduction Act 2017 to avoid directly or indirectly risk to children, young people or vulnerable adults.

### **Public Health Implications**

25. The majority of tenants in social and affordable housing will continue to have lifetime tenancies. Unless in certain circumstances where at least 10 years are required as a minimum and supporting tenants to understand their rights and responsibilities as tenants, while also seeking to drive up standards in both the public and private rented sectors, we will support Enfield residents to live safe, healthy and confident lives in settled communities across the borough.

### **Equalities Impact of the Proposal**

26. We have completed an Equality Impact Assessment (EqIA) on the draft Tenancy Policy which is attached as appendix to this report. As with the EqIA for the Tenancy Strategy this continues to show differential impact for children, females, people with a disability and black and ethnic minority groups with regard to fixed term tenancies on larger homes (4 bedrooms or larger). The differential impact of offering fixed term tenure, as opposed to a lifetime tenancy, to households requiring larger properties, is mitigated through offering a minimum tenancy term of 10 years (previously 5 years) with a longer term encouraged for families with children aged 5 years and under or 10 years and under if the child is affected by special educational needs or disabilities. Tenants will be offered a further tenancy at the end of the fixed term if their circumstances have not significantly changed. There are no circumstances where a fixed-term tenancy can be granted to a tenant if they or a member of their household has been a victim of domestic abuse and the new tenancy is granted in connection with that abuse.

### **Environmental and Climate Change Considerations**

27. The proposals in the draft Tenancy Policy should not have any direct impact on carbon emissions. The policy will provide the majority of tenants in social and affordable housing with lifetime tenancies unless in certain exceptional circumstances, which may help prevent carbon emissions associated with house moves.

### **Risks that may arise if the proposed decision and related work is not taken**

28. The Tenancy Policy is a statutory requirement under the Localism Act 2011. Agreement has been made to review the policy following a review of the Tenancy Strategy. As a strategic housing authority, a policy is required that is up to date and in line with the revised Tenancy Strategy. Failure to update the tenancy policy would increase the likelihood of legal challenge and impact the reputation of Enfield council in its strategic remit.

29. If this work was not taken forward, the Council would miss opportunities to set high standards for tenancies in the Borough enabling Enfield residents to live as healthily, safely, and independently as possible.

### **Financial Implications**

30. The Tenancy Policy will apply to Council owned housing stock, as part of the Council's landlord role. The new policy has been set within the Housing and landlord regulatory framework. The policy doesn't detail specific budget requests.

31. The new Tenancy Policy sets out the approach for the following:

- a. Flexible and other tenancies
- b. Appeal process of a flexible tenancy
- c. Tenancy reviews
- d. Tenancy renewals
- e. Length of tenancy renewals
- f. Review of a renewal decision
- g. Tenancy succession
- h. Delegated authority - approvals
- i. Right to appeal

32. All Council tenancies will be charged rent in line with the Social Housing Rent Standards Policy.

### **Legal Implications**

33. The Housing Policy 2022 follows the publication of London Borough of Enfield's tenancy strategy. Public consultation took place between 15 September-1 November 2021. This is in accordance with Section 150 (1) of the Localism Act 2011, which stipulates that Local Authorities must set out matters to which it must have regard for in the formulation of policies relating to the following.

- (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.

34. The Council must have regard to its tenancy strategy in exercising its housing management functions Section 150 (3) of the Localism Act 2011 and publish the Tenancy Strategy before the end of the period of 12 months beginning with the day on 14 January 2013, in which the relevant section of this Act came into force, Section 150 (4) of the Localism Act 2011.

35. The statutory provision specifies that a Local Housing Authority must keep its Tenancy Strategy under review and may modify or replace it from time-to-

time Section 150 (5) of the Localism Act 2011 and any proposed modifications should be published, Section 150 (6) of the Localism Act 2011.

36. By virtue of Section 150 of the Localism Act 2011, should there be any modifications or adopting to the tenancy strategy which would reflect a major change in policy, Section 151 (1) of the Localism Act 2011 requires the following process to be undertaken:

- (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.

**and**

s.151(2) (b) consult the Mayor of London.

37. Accordingly, Section 151 of the Localism Act 2011 mandates that Tenancy Strategies are expected to have regard to the Council's: current allocation scheme under Section 166A of the Housing Act 1996; current homelessness strategy under Section (1) (inclusive) of the Homelessness Act 2002; In the case of an authority that is a London borough council, the London Housing Strategy.

38. The collective objective of the Tenancy Strategy is to ensure that residents have a clear understanding of their tenancy and that they can benefit from long term security. To promote fairness and equality, Local Authorities would also be expected to give due consideration under the provisional criteria for Public Sector Equality Duty in accordance with Section 149 of the Equality Act 2010.

### **Workforce Implications**

39. No HR implications.

### **Property Implications**

40. HRA property implications: these are found throughout this report

### **Other Implications**

### **Options Considered**

41. The Council has made a decision to issue most new tenants with introductory tenancy agreements. The introductory tenancy regime continues to play a part in the management of ASB by providing reassurance to existing tenants and a deterrent to new tenants. The majority of tenants will have a lifetime tenancy that follows on after their introductory tenancy.

Flexible tenancies will be issued for the first time in specified circumstances of a minimum 10-year duration to foster tenancy sustainability and community.

## **Conclusions**

42. It is recommended that the Tenancy Policy be agreed for implementation.

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Date of report: 27<sup>th</sup> February 2023

## **Appendices**

Tenancy Policy Report  
EqIA – Tenancy Policy  
Cabinet Report – Draft Tenancy Management Strategy

## **Background Papers**

The following documents have been relied on in the preparation of this report:

- Enfield Council Tenancy Strategy 2022- 2025
- EqIA Tenancy Management Strategy
- EqIA Tenancy Policy