

Agenda Item 12

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Date	5 th February 2013

Ward (s) affected	All	Key Decision	No
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Subject	Tenancy Strategy 2013-2016
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RECOMMENDATIONS

The Executive is asked to approve the Tenancy Strategy 2013-16.

EXECUTIVE SUMMARY

The Localism Act 2011 section 150 requires a local housing authority to publish a Tenancy Strategy. Registered Providers of social housing, such as housing associations, are required to have their own Tenancy Policy, which must have 'due regard to' the Tenancy Strategy of the local council areas in which they operate.

The Localism Act introduces new fixed term tenancies, which means that rather than granting tenants a tenancy for life (an assured tenancy) housing associations are now able to grant shorter tenancies of five years or more (or as short as two years in exceptional circumstances).

The Strategy sets out the Council's expectations of housing associations in the district when forming their Tenancy Policies for:

- the kinds of tenancies they grant;
- the circumstances in which they will grant tenancies of a particular type;
- where they grant tenancies for a fixed term, the length of those terms; and
- the circumstances in which a tenancy may or may not be renewed at the end of the fixed term.

This Strategy also provides guidance to housing associations on:

- the application of affordable rents in the district.

The overall aim of the strategy is to ensure that against a background of a shortage of affordable housing and high housing need that best use of the housing association stock is achieved, whilst protecting vulnerable households and ensuring the stability of neighborhoods and communities.

Consultation has been undertaken with the Scrutiny Committee, housing associations, housing register applicants and residents. Following the Scrutiny Committee the strategy was circulated to all members for comment.

CORPORATE PRIORITIES

The strategy is a document that housing associations must have 'regard to' when forming their Tenancy Policies and does not have a direct impact on the Council's priorities. However, in keeping with the access to services priority the Council's expectations of housing associations detailed in the strategy are aimed at providing clarity to tenants and to those affected if their tenancy is not renewed. There has also been consultation on the strategy and in response amendments have been made.

The Executive has the authority to determine the recommendations

1.0 BACKGROUND

The Localism Act 2011 section 150 requires a local housing authority to publish a Tenancy Strategy. Registered Providers of social housing, such as housing associations, are required to have their own Tenancy Policy, which must have 'due regard to' the Tenancy Strategy of the local council areas in which they operate.

The Localism Act introduces new fixed term tenancies, which means that rather than granting tenants a tenancy for life (an assured tenancy) housing associations are now able to grant shorter tenancies of five years or more (or as short as two years in exceptional circumstances).

2.0 THE STRATEGY

The strategy sets out the Council's expectations of housing associations in the district when forming their Tenancy Policies for:

- the kinds of tenancies they grant;
- the circumstances in which they will grant tenancies of a particular type;
- where they grant tenancies for a fixed term, the length of those terms; and
- the circumstances in which a tenancy may or may not be renewed at the end of the fixed term.

The strategy also provides guidance to housing associations on:

- the application of affordable rents in the district.

The overall aim of the strategy is to ensure that against a background of a shortage of affordable housing and high housing need that best use of the housing association stock

is achieved, whilst protecting vulnerable households and ensuring the stability of neighbourhoods and communities. The strategy can be found at appendix one.

2.1 Aims

The aims of the strategy are to:

- set out the Council's expectations of housing associations operating in Mole Valley when granting fixed term tenancies;
- ensure that the approach to fixed term tenancies is consistent and enables the best use of stock to meet housing need in the district;
- promote tenant mobility and help to reduce under occupation and overcrowding;
- provide security for older and vulnerable households; and
- ensure housing association tenants are provided with good information about their tenancy type, the processes around review and renewal of their tenancy, their right to appeal and how to access housing options advice.

2.2 Tenancies

Housing associations are now able to grant new tenants a:

- lifetime tenancy where the tenant can live in their home as long as they want provided they do not breach the terms of their tenancy; or
- fixed term tenancy, which is a shorter tenancy with an end date and the tenancy may last 5 years or more, but cannot be less than 2 years.

In both of the above tenancy types the Council expects housing associations to issue a probationary tenancy for the first year that should be in addition to the five year fixed term tenancy where granted.

Housing associations who are not intending to use fixed term tenancies will need to assure the Council that they have a robust business case and policies to justify and support their approach.

The strategy sets out in detail the Council's expectations on who will be offered lifetime tenancies or fixed term tenancies. It also sets out the expectations regarding the renewal and appeal process when fixed term tenancies come to an end. There is a presumption that most tenancies will be renewed when the term is coming to an end and specifically where households have children in full time education or where a households are living in an adapted property that meets the needs of a member of the household.

Circumstances are described where the Council considers fixed term tenancies should not be renewed, which includes under occupation, income levels and anti-social behaviour. Where the criteria for non-renewal are met, circumstances are also described where exceptions may need to be made to renew the tenancy, such as a household member has a terminal illness or the tenancy needs to continue for stability of the household.

Where tenancies are not renewed housing associations are required to provide these households with advice on finding alternative accommodation and are strongly encouraged to use the Council's housing options and advice service.

Tenants offered an assured tenancy before 1 April 2012, are not affected by the above changes and if they transfer to alternative property with their landlord they will be offered another assured tenancy.

2.2 Other Matters

The strategy also covers detail:

- where a long term resident does not have the right to succeed to a tenancy;
- where the use of Lettings Plans may be appropriate to depart from the Tenancy Strategy, for example to provide a community with stability;
- on the Council's position that affordable rents should be below the Local Housing Allowance (used to determine the maximum amount of Housing Benefit to be paid) and where possible be at an average of 73% of the market rent; and
- on the Council's requirement for annual lettings information from housing associations to be provided to monitor the strategy.

3.0 OPTIONS

There are two options that the Executive is asked to consider:

- option 1 approve the Tenancy Strategy; or
- option 2 ask for amendments to be made and further consultation to be undertaken.

4.0 CORPORATE IMPLICATIONS

Legal Implications

The Draft Tenancy Strategy complies with the requirements of the Localism Act and provides a rational approach for housing associations to have regard.

Financial Implications

There are no financial implications to this report. It is unlikely that the Council will be needed to provide advice to those whose tenancies are coming to an end for some time, given that tenancies will be for up to six years (one year probationary plus a five years fixed term). Appropriate service level agreements will be put in place with housing associations, however, this will be about levels of service to be provided rather than cost, as the homelessness legislation requires that the Council provide a free housing advice service.

Reputational Implications

There are no specific reputational implications to this report.

Risk Implications

There are no significant risks to the Council arising from this report.

Equalities Implications

A range of groups have been consulted on the Tenancy Strategy including those that assist the disadvantaged and vulnerable people. An Equality Impact Assessment has been undertaken and where households are affected because their tenancy may not be renewed this is mitigated by the review and appeal procedure housing associations are required to follow.

Employment Issues

There are no employment issues relating to the Council arising from this report.

Sustainability Issues

There are no environmental sustainability implications arising from this report.

Consultation

The following have been consulted.

- housing associations that offer tenancies in Mole Valley;
- Surrey County Council – Children and Adult Services;
- Surrey Police;
- Dorking and Leatherhead Citizens' Advice Bureau;
- applicants on the Housing Register via the Mole Valley Home Choice website;
and
- residents of Mole Valley via the Council's website.

Following consultation amendments have been made to the original strategy draft, as it was considered to be too prescriptive on the groups specified that lifetime tenancies should be offered to. It was considered to present difficulties to housing associations in developing their Tenancy Policies that must also have regard to the different Tenancy Strategies of each local authority in which they work.

4.0 BACKGROUND PAPERS

Localism Act 2011

Consultation responses

1. Introduction

The Localism Act 2011 section 150 requires a local housing authority to publish a Tenancy Strategy by January 2013. Registered Providers of social housing, such as housing associations, are required to have their own Tenancy Policy, which must have 'due regard to' the Tenancy Strategy of the local council areas in which they operate.

The Localism Act introduces new fixed term tenancies, which means that rather than granting tenants a tenancy for life (an assured tenancy) housing associations are now able to grant shorter tenancies of five years or more (or as short as two years in exceptional circumstances).

2. Purpose of the Strategy

This Tenancy Strategy sets out the Council's expectations of housing associations in the district when forming their Tenancy Policies for:

- the kinds of tenancies they grant;
- the circumstances in which they will grant tenancies of a particular type;
- where they grant tenancies for a fixed term, the length of those terms; and
- the circumstances in which a tenancy may or may not be renewed at the end of the fixed term.

This Strategy also provides guidance to housing associations on:

- the application of affordable rents in the district.

In preparing this Strategy, the Council has had regard to its priority on 'access to services', its Housing Allocation Policy 2010, Homelessness Strategy 2008-13 and East Surrey Housing Strategy 2009-2013.

3. Social Housing Demand and Supply

The demand for social housing in Mole Valley is greater than the number of homes available. The Council's Housing Needs Survey 2007, suggested that there was an annual shortfall of about 1,000 affordable homes per year. The Housing Register currently stands at approximately 1,400 households, which includes those who are over 55 years old.

Affordable housing supply is provided by housing associations from turnover in their existing stock and from development of new homes, which averages at about 25 new rented homes per year. This means that the Council is reliant on turnover in the existing social housing stock, which last year produced approximately 227 lettings of which 100 were to people over 55. The Council's statistics show that per year housing association lettings only house about 11% of those on the Housing Register who are under retirement age. Low annual turnover rates in family sized two and three bedroom stock (5% and 1% respectively) indicate that this is where fixed term tenancies could be used to greatest effect, although this needs to be balanced against the need to provide stability for people and communities. More detailed statistics are contained in appendix one.

It is against this backdrop that the Council has considered how it should respond to the opportunities presented by fixed term tenancies.

4. Aims of the Tenancy Strategy

The aims of this strategy are to:

- set out the Council's expectations of housing associations operating in Mole Valley when granting fixed term tenancies;
- ensure that the approach to fixed term tenancies is consistent and enables the best use of stock to meet housing need in the district;
- promote tenant mobility and help to reduce under occupation and overcrowding;
- provide security for older and vulnerable households; and
- ensure housing association tenants are provided with good information on the type of tenancy they are offered, the processes around review and renewal of their tenancy, their right to appeal and how to access housing options advice.

5. Tenancies

Housing associations are now able to grant new tenants a:

- lifetime tenancy where the tenant can live in their home as long as they want provided they do not breach the terms of their tenancy; or
- fixed term tenancy, which is a shorter tenancy with an end date and the tenancy may last 5 years or more, but cannot be less than 2 years.

In both of the above tenancy types the Council expects housing associations to issue a probationary tenancy for the first year that should be in addition to the five year fixed term tenancy where granted.

Housing associations who are not intending to use fixed term tenancies will need to assure the Council that they have a robust business case to justify their approach.

5.1 Use of Lifetime Tenancies

To protect older and vulnerable people the Council expects that lifetime tenancies will be offered by housing associations to people who:

- are moving into sheltered housing;
- are over state retirement age;
- are moving into supported housing;
- have a long-term medical or welfare needs and whose circumstances are not expected to change, including but not limited to those:
 - who are registered disabled; or
 - with a terminal illness; or
- are housing association tenants living in Mole Valley who are over 55 and are under occupying their current home and agree to move to a smaller home.

5.2 Use of Fixed Term Tenancies

Where fixed term tenancies are used the Council expects that housing associations will:

- make it clear to housing applicants the type of tenancy they will be offered;
- provide clear information on the nature and consequences of the tenancy; and
- issue tenancies that will be no shorter than 5 years.

If a housing association uses shorter tenancies they will need to demonstrate to the Council that there are exceptional circumstances to justify their approach.

5.3 Renewal of Fixed Term Tenancies

Tenants who are granted a fixed term tenancy must be made fully aware of the criteria against which their housing situation will be considered when the housing association makes the decision whether to renew their tenancy, and how they can appeal against a decision not to renew.

The Council expects that in most cases tenancies will be renewed with a presumption to renew in the circumstances described below.

- Tenants who have families with children in full time education. Families with children will be deemed to be appropriately occupying their home until the youngest child residing in the home reaches 18 years or 21 years if in full time education.
- Tenants living in adapted properties that have a disabled member of the household; until such time as the adaptations are no longer required.
- Ex-service personnel who have been medically discharged as a consequence of operational deployment.
- Bereaved spouses or civil partners of members of the armed services leaving Service Family Accommodation (SFA) following the death of their spouse or partner on operational deployment.
- Tenants who are foster carers, who have been confirmed by Surrey County Council Children's Services, and need the property to continue in this role.

5.4 Non-Renewal of Fixed Term Tenancies

The purpose of granting fixed term tenancies is to make best use of stock to meet housing need, but this must be balanced against the need to provide stability for people and communities, therefore, the Council will encourage housing associations not to renew fixed term tenancies in the circumstances described below.

- The property is under occupied.
- The tenant has sufficient financial resources to meet their housing needs in the private housing market. (The Council's Housing Allocations Policy 2010, and whatever shall replace it, states that an average single income of £35,000 or average joint income of £40,000 is sufficient to secure housing in the private sector).
- The tenant or members of their household no longer require an adapted property.

- Where the tenant and or members of their household have been guilty of anti-social behaviour.

5.5 Exceptions to the Non-Renewal of Fixed Term Tenancies

- Even if the criteria for non-renewal are met, there are circumstances where, to protect vulnerable people, renewal may need to be considered. The Council considers these to be, but not limited to those, where:
 - the tenant or a member of their household is registered disabled or has a terminal illness;
 - the tenant was previously a young person in the care of Surrey County Council and needs the continued support of the County Council's Children's/Adult Services, as confirmed by them and continuity and stability is required to support the tenant; or
 - the tenant and their household are supported by Surrey County Council's Family Support Programme or whatever should replace it and continuity and stability is required to support the household.

5.6 Review of Fixed Term Tenancies

Where fixed term tenancies are granted the Council expects housing associations to have in place robust procedures for dealing with the review and renewal of tenancies. The process should include the following.

- Not less than 12 months from the end of the tenancy the housing association will review the tenancy and will, no less than six months from the end of the tenancy, advise the tenant whether their tenancy will be renewed. If the intention is not to renew the tenancy the tenant will be provided with reasons and comprehensive advice and assistance to secure alternative accommodation.
- An appeals process of which the tenant should be advised of their right to appeal and the timescales within which they can appeal.
- The housing association should provide the Council with details of those tenancies that are not being renewed and the tenants should be advised about the Council's housing options and advice service.
- The housing association should ensure the required 2 months notice is served on or before the date on which the fixed term expired in the required form that states the grounds that the association requires possession of the property.

5.7 Advice and Assistance

Where a housing association has decided that it will not renew a tenancy the Council expects that the association will put in place a full housing options advice package to help the tenant make the transition to alternative housing and to plan for meeting their housing needs in the long term.

The Council encourages associations to consider using the Council's Housing Options Team to deliver this service under a service level agreement.

6. Succession

A housing association's tenancy policy should set out their approach on tenancy succession. Where an association intends to allow succession to someone who is not a spouse or civil partner, it should be set out clearly in their policy.

Given the level of housing need in the district the Council would not support significant extension to the right to succeed. However, following the death of a tenant if there is someone residing in the home, as his or her principal residence, who is not entitled to succeed, the association should:

- provide housing options advice and assistance to that person;
- make sure that their policies protect the interests of vulnerable people; and
- where appropriate offer alternative accommodation of a size that meets that person's needs.

7. Lettings Plans

To create sustainable communities the Council supports a lettings plan approach to meet the needs of particular areas and as part of this process the appropriate length of tenancy may be considered. The lettings plan approach is included in the Council's Housing Allocations Policy 2010.

This will allow decisions to be made in certain circumstances that depart from the tenancy strategy where there are particular needs, for example to limit the use of fixed term tenancies where it is important that a neighbourhood requires stability.

8. Affordable Rent

Housing associations with development programmes funded by the Homes and Communities Agency now offer most of their new build properties and a percentage of vacancies in their existing stock at affordable rents.

Affordable rents are up to 80% of market rent levels, inclusive of service charges. Rents at this level are intended to minimise the capital subsidy necessary to support the continued delivery of new affordable housing. Charging rent at this level can put rents outside established affordability thresholds, particularly at the point where housing benefit is withdrawn from a household, for example when moving into employment.

Market rents in Mole Valley are amongst the highest in the country. As property sizes increase, the difference between market rents (80% of market rent) and social rents (about 60% of the market rent) increases significantly. The Council, therefore, requires that housing association affordable rents are set below the published Local Housing Allowance (used to determine the maximum amount of Housing Benefit to be paid) rate for the area and where possible to set them at an average of 73% of the market rent.¹

9. Monitoring and Review of the Strategy

The strategy will ultimately become part of our Housing and Homelessness Strategies and will be reviewed alongside these documents.

Housing associations will be asked to provide additional annual information on their letting activity in the district to enable proper monitoring of the strategy.

¹ 12 July 2011 Executive decision

The Council will require annually from housing associations statistics on the number of tenancies offered on a fixed term and at affordable rents.

10. Conclusion

The opportunity to grant fixed term tenancies offers housing associations greater flexibility to manage their stock. The Council wishes to support the use of fixed term tenancies as one of a number of ways in which housing associations can make best use of their stock to assist the Council in meeting the housing needs of its residents.

Appendix One

Table 1 - Number and Percentage Housed from the Housing Register 2011/12

Bedroom size	Number of households on the housing register on 31 March 2012 (excludes over 55's)	Number of households housed from the housing register during 2011/12 (excludes over 55's)	Percentage of housing register households housed in 2011/12 (excludes over 55's)
			%
Bedsit/one bed	761	71	9
Two bed	421	60	14
Three bed	169	21	12
Four bed	21	5	24
Five bed	14	1	7
Total	1386	158	11

Table 2 - Turnover of General Needs Housing Association Homes 2011/12 (excludes accommodation for over 55's)

Bedroom size	Number of general needs housing association homes in Mole Valley 31 March 2012	Number of lettings in the housing association stock excluding new build 2011/12	Percentage annual turnover of housing association stock
			%
Bedsit/one bed	1209	71	6
Two bed	965	50	5
Three bed	1238	17	1
Four bed	38	1	2.5
Five bed	3	1	33
Total	3453	140	4

