



To: Executive Councillor for Housing, Councillor Catherine Smart
Report by: Liz Bisset, Director of Customer & Community Services
Relevant scrutiny committees: Housing Management Board 7/01/2014

Wards affected: All Wards

Tenancy Policy 2014 - 2016 Key Decision

1. Executive Summary

- 1.1 This Tenancy Policy sets out Cambridge City Council's approach to tenancy management, tenancy sustainment and the types of tenancy we will offer. The City Council will usually offer secure tenancies and to those new to social housing a one year introductory tenancy.
- 1.2 The Localism Act 2011 gives Local Authorities the power to offer fixed term tenancies to new social tenants. The Council's preference is for Lifetime tenancies, to promote settled communities. However, fixed term tenancies could be offered for properties with 4 or more bedrooms, properties with significant adaptations, for move on accommodation and specific one off properties.
- 1.3 The use of fixed term tenancies will enable the Council to recover large properties when the number of bedrooms is no longer required. There are about 100 Council properties with four or more bedrooms. However, as this Policy only applies to new tenancies made available from April 2014 it may take several years to recover large properties when the fixed term expires.

2. Recommendations

The Executive Councillor is recommended:

- 2.1 To approve the Tenancy Policy.

2.2 To approve the use of fixed term tenancies from April 2014 for:

- a) properties with 4 or more bedrooms – 5 years
- b) significantly adapted disabled properties – 5 years
- c) move on accommodation – 3 years
- d) one off properties – 5 years

3. Background

3.1 The idea of a Tenancy Policy was introduced as part of a wider package of social housing reforms implemented through the Localism Act 2011. Under this Act, local authorities with a strategic housing role are required to have a Tenancy Strategy setting out the issues which registered providers operating in the local area must have regard to when deciding the types of tenancies to offer, the circumstances in which they will offer a tenancy, the length of any fixed-term tenancy and the circumstances in which they will grant a new tenancy when a fixed-term tenancy comes to an end. As a housing provider Cambridge City Council is required to have a Tenancy Policy and to take account of the Tenancy Strategy.

3.2 The Tenancy Policy intends to set out how Cambridge City Council as a landlord will manage tenancies and support tenants to sustain their tenancies as well as making a statement on dealing with fraud.

3.3 An Equalities Impact Assessment has been completed for this Policy. This has identified a couple of actions to be addressed including the need for clear information to be given to prospective tenants.

3.4 By only adopting fixed term tenancies for large properties and maintain a preference for lifetime tenancies younger people seeking housing may be disadvantaged. People occupying significantly adapted properties may be asked to move at the end of the fixed term if the adaptations are no longer required.

4. Implications

(a) Financial Implications

There are no direct financial implications of this report.

(b) Staffing Implications

There are no staffing implications identified as a consequence of this report.

(c) **Equal Opportunities Implications**

An equality impact assessment has been completed.

(d) **Environmental Implications**

There are no direct implications.

(e) **Procurement**

There are no direct procurement implications associated with this report.

(f) **Consultation and Communication**

A small group of tenants and Councillors have met to shape the early versions of this Policy. An article in the OPENDOOR magazine refers readers to a formal consultation on the Council's website.

(g) **Community Safety**

There are no direct community safety implications associated with the under occupation incentive scheme.

5. Background Papers

The Tenancy Strategy was used in the preparation of this report.

6. Appendices

Appendix 1 – Tenancy Policy 2014 - 2016

7. Inspection of Papers

To inspect the background papers or if you have a query on the report please contact:

Author's Name: Andrew Latchem, Area Housing Manager
Author's Phone Number: 01223 458402
Author's Email: Andrew.latchem@cambridge.gov.uk

APPENDIX 1

TENANCY POLICY Cambridge City Council 2014 - 2016

CAMBRIDGE CITY COUNCIL TENANCY POLICY 2014

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This Policy is to be reviewed in 2016.

PURPOSE OF POLICY

This is the Tenancy Policy of Cambridge City Council which is a stock retained Local Authority with over 7,300 tenancies and over a 1,000 leasehold properties. The aim of this policy is to ensure customers, tenants and applicants are clear about the Policies relating to Tenancy Management in the context of the new Affordable Rents, fixed term tenancies and succession rights introduced under the Localism Act 2011. This policy sets out the approach to tenancy management, tenancy sustainment and the types of tenancy we offer, including:

- The types of tenancies the council will offer
- The circumstances in which tenancies will be granted
- The length of tenancies
- The council's approach to tenancy management
- The council's approach to tackling tenancy fraud
- The council's approach to tenancy sustainment

This Policy should be considered in conjunction with the Lettings Policy for Cambridge City Council and the Cambridge Sub-regional Choice Based Lettings scheme.

INTRODUCTION

The idea of a Tenancy Policy was introduced as part of a wider package of social housing reforms implemented through the Localism Act 2011. Under the Localism Act 2011, local authorities with a strategic housing role are required to have a Tenancy Strategy setting out the issues which registered providers operating in the local area must have regard to when deciding the type of tenancies to offer, the circumstances in which they will offer a tenancy of a particular kind, the length of any fixed-term tenancy, and the circumstances in which they will grant a new tenancy when a fixed term tenancy comes to an end.

The Tenancy Policy takes account of our Tenancy Strategy which can be found at

<https://www.cambridge.gov.uk/housing-and-related-strategies#tenancy-strategy>

All housing providers are required to publish a Tenancy Policy which is intended to set out how landlords will use the range of options made available to them. Additionally the Policy needs to clarify how landlords will support tenancy sustainment and prevent unnecessary evictions.

TENANCIES

Types of tenancies

New tenancies: the general rule is that local authorities can only grant secure tenancies. Additionally the city council has opted for introductory tenancies which have worked successfully for several years. We only grant secure tenancies where, immediately before the tenancy began, the applicant was either:

- a secure tenant or an assured tenant of a Housing Association or:-
- an introductory tenant who has successfully completed their probationary period

(A) Introductory tenancies

These are probationary tenancies that normally last for 12 months but can be extended for a further 6 months. Unless a prospective tenant already has a secure tenancy or an assured tenancy the council will grant an introductory tenancy for a trial period. The introductory tenancy will become a secure tenancy after 12 months if the tenancy has been conducted successfully or at the end of any extension period.

The introductory tenancy is a trial period and the tenant must show that they are able to sustain a tenancy and comply with the Tenancy Conditions. To do this they must comply with the terms of the tenancy agreement. An introductory tenant can be evicted much quicker than a secure tenant if the terms of the tenancy agreement have been breached. Introductory tenants cannot buy their home or exchange with other tenants.

Introductory tenants do not have all of the rights granted to secure tenants; these are clearly marked in the Tenancy Agreement.

(B) Secure tenancies

If the introductory period or the extension period, as applicable, is completed successfully then introductory tenancies automatically become secure tenancies.

The city council will grant a secure tenancy where, immediately before the tenancy began, the applicant was:

- A secure tenant: or
- An assured tenant (not an assured shorthold tenant) of social housing where the landlord is a registered social landlord; or
- An introductory tenant who has successfully completed their trial period.

A secure tenancy gives the tenant security of tenure and the following statutory rights:

- Right to buy
- Right to repair

- Right to take in lodgers
- Right to sublet part of the property with the City Council's permission
- Right to exchange
- Right to consultation and information

(C) Minors and tenancies

As a person under the age of 18 years cannot hold a legal tenancy we will seek to grant the tenancy to an adult, perhaps a member of the minor's family or to another adult. This person would hold the tenancy in trust for the minor's benefit until they reach 18.

(D) Fixed term tenancies

Section 154 of the Localism Act 2011 gives local authorities the power to offer flexible tenancies for a term certain (i.e. fixed term tenancies) to new social tenants. A fixed term tenancy is a secure tenancy for a period of not less than 2 years. The City Council's preference is generally to grant lifetime tenancies. However, due to the high demand and scarcity of certain types of properties we will grant fixed term tenancies to the following types of properties:

- Properties with 4 or more bedrooms – 5 years
- Significantly adapted properties – 5 years
- Move on accommodation – 3 years
- One off properties – 5 years

Properties with disabled adaptations will be considered by the Area Housing Manager and the Technical Services Officer (Adaptions) who will decide whether they should be designated as significantly adapted and offered as a fixed term tenancy.

Move on accommodation will be designated as such following consideration by the Manager of Temporary Housing / Housing Support and the Area Housing Manager. Move on Accommodation is provided for people who are recovering from mental ill health. The majority of referrals to the scheme are from people leaving hospital wards or moving through the supported housing system towards independent living. The accommodation is not designed for long term housing and it forms part of an overall rehabilitation process and helps facilitate discharge from much needed mental health wards.

One off properties will be designated as such by the Area Housing Manager but will only be used in exceptional circumstances. Examples may include properties in potential development areas. The period of 5 or 3 years will include the first introductory year.

Length of fixed term tenancy.

The fixed term tenancy will usually be for 5 years except move on accommodation which will be for 3 years. The review of the fixed term tenancy will be carried out by the city council between six and twelve months before the fixed term is due to expire. The City Council will normally propose to grant another fixed term tenancy at the end of the fixed term other than where:

- In the case of homes with 4 or more bedrooms the home is now larger than required by the household
- The home contains significant disabled adaptations which are no longer required by that household and the adapted home would meet the needs of another household on the housing register
- In the case of designated move on accommodation as the accommodation is not designed for long term housing. Tenants will be offered advice and assistance to find alternative accommodation suitable to their needs.
- The tenant does not wish to be granted a new fixed term tenancy.

Tenants of fixed term tenancies will be given at least six months' notice if the decision has been made not grant another fixed term tenancy.

Review of decision.

The tenant can ask for a review of this decision. The review process will be similar to that process in operation for Introductory Tenancies. A review must be requested in writing within 21 calendar days of the Notice being served on the tenant. The purpose of the review is to consider whether the decision is in accordance with any policy of the council as to the circumstances in which it will grant a further tenancy on the coming to an end of an existing fixed term tenancy.

The following will NOT be taken into account in the decision not to grant another tenancy:

- Where there has been a breach of the tenancy conditions, including rent arrears
- Any improvement in the tenants' financial circumstances

Possession action can be taken at any time during the fixed term if the tenant is in breach of the tenancy agreement or other grounds specified in the Housing Act 1985.

Where a decision is made not to grant a new tenancy the City Council will offer advice and support to the tenant in finding suitable alternative accommodation. The Council will offer the tenant suitable sized alternative accommodation.

Affordable rents

The coalition government has introduced a new form of rent - known as 'affordable rent' - for homes provided by registered providers (mainly councils and housing associations), which can be set at up to 80% of local market rents, with the additional revenue raised to be re-invested in providing new Affordable Housing. New homes built by the Council with grant funding from the Homes and Communities Agency will, in most cases, as a condition of the grant need to be offered at an Affordable Rent.

The Council is committed to ensuring that rents remain as affordable as possible to local people, and we have negotiated with the Homes & Communities Agency that new homes required to be at Affordable Rents will be provided at rent levels set at or below Local Housing Allowance rates. We will continue to aim for rents to be set at this level in any bid for Affordable Housing grant in the 2015/18 bid round.

MANAGING TENANCIES

We ensure that tenants are aware of their rights and obligations when they sign up for their tenancy. These terms are set out in the tenancy agreement. City Homes has a series of tenancy management policies outlining its approach to other tenancy issues and management of the housing stock, including abandonment, ending a tenancy, subletting etc.

Assignment of tenancy

Secure tenants (including fixed term secure tenants) can pass on (assign) their tenancy to another person in the following circumstances:

- By mutual exchange (see below)
- Under certain court orders
- With the Council's permission to a person who would be qualified to succeed to the tenancy if the tenant died immediately before the assignment.

Mutual exchanges

Secure (including fixed term) tenants have the right to exchange their home by assigning the tenancy to another secure tenant of a local authority or a registered social landlord such as a housing association.

In order for a tenant to exchange their home with another tenant they must get our written permission first and the other tenant must get permission from their landlord.

Either landlord may attach conditions to the agreement which have to be met before the exchange can take place. These may, for example, be to clear any rent arrears and/or correct any breach of tenancy conditions.

Succession rights

If there is a **joint secure** tenancy and one of the tenants die the surviving tenant will automatically take on the tenancy.

If there is a **sole secure** tenant who has not succeeded to the tenancy, then the tenancy can be passed on to a spouse or civil partner providing that they are living with the tenant when the tenant dies. If the tenant has no spouse or civil partner, then certain close members of the family may be able to succeed to the tenancy if they have been living with the tenant for at least twelve months at the date of the death of the tenant. We may ask a successor to move to another home if the home they have succeeded to is larger than they would be eligible for.

Under the Localism Act the statutory right of succession to a secure tenancy for family members has been abolished. As such statutory succession will be limited to spouses, civil partners and those in equivalent relationships. Cambridge City Council secure tenants benefit from enhanced contractual rights granting qualifying family members the right to succeed through the Tenancy Agreement which was amended in 2009 following consultation.

Tenancy changes

Sole to joint

There is no right to the granting of a joint tenancy, nor to add a tenant to an existing tenancy. If a tenant requests a joint tenancy this is a matter which is at the discretion of the landlord. For housing applicants where the proposed joint tenants are both eligible for housing as defined by legislation, the tenants could be granted a joint tenancy. Existing sole tenants can request a joint tenant be added to their tenancy in the following circumstances:

- Where the proposed joint tenant is married to or is a civil partner of the existing tenant : or
- Where the proposed joint tenants live together and the relationship is an established one i.e. evidence is produced showing they have lived together for at least 12 months prior to the application.

If the sole tenant is in breach of any of the tenancy conditions the joint application may be refused.

The City Council will not normally agree to joint tenancy requests between generations – to a person who is entitled to succeed to that tenancy (e.g. mother and daughter) as this could compromise its ability to make the best use of its housing stock. In some exceptional circumstances joint inter-generational tenancies may be offered at the point of allocation if they are part of an established household.

Joint to sole

Joint tenants are responsible individually and together for keeping to the tenancy conditions and making sure that rent and other charges are paid.

Service of a Notice to Quit (NTQ) in writing by one or both of the joint tenants will end a joint tenancy. If a NTQ is received from only one of the joint tenants the City Council will endeavour to contact the other joint tenant who may be absent from the property. The tenant will be advised to seek Legal advice regarding the implications of changes to a tenancy.

Where one of the joint tenants may wish to remain in the property the request for a sole tenancy should be considered by the Senior Officer Review Panel (SORP) before the remaining tenant is required to give NTQ.

Ending a tenancy

Tenants must give four weeks' Notice in writing if they are going to end their tenancy. A joint tenancy will end if one or more joint tenants give us notice to end it. When a tenant dies we will normally expect their next of kin or executor to give four weeks' Notice to end the tenancy.

Abandonment

Where, following investigation it appears to us that a tenant has abandoned their property we may serve a Notice to Quit to end the tenancy. When the Notice expires we may repossess the property. There may be circumstances when the Council may treat the tenancy as ended by reason of abandonment, in which cases we may resume possession of the property without serving a Notice to Quit and accept the implied surrender of the tenancy. Cases will be monitored by the Tenancy Enforcement Panel.

TENANCY SUSTAINMENT

The City Council will support tenants as much as possible to sustain their tenancies. Eviction of council tenants will only be used as a last resort. We will offer advice and support when signing tenants up for new tenancies. We will ensure that tenants are informed about their tenancy rights and obligations when tenancies are signed for.

We will offer advice and assistance on financial matters, particularly where tenants may experience difficulty with rent payments. This will include assistance with Housing Benefit application forms and financial budgeting.

Where appropriate we will refer tenants to Housing Support and other support agencies.

TENANCY FRAUD

Tenancy fraud presents a significant challenge to the City Council as a provider of social housing. Local authorities and housing associations have recognised that

preventing the fraudulent misuse of socially rented properties is a priority for social landlords.

Tenancy fraud may include any of the following.

- Attempting to obtain a council property using false documents
- Unlawfully subletting the property as prescribed in the Prevention of Social Housing Fraud Act 2013.

The City Council will take appropriate action against any tenant found to be committing tenancy fraud. The City Council will consider taking criminal action against tenants who unlawfully sub-let their properties using powers granted under the Prevention of Social Housing Fraud Act 2013. A secure tenant will commit an offence, if in breach of an express or implied term of their tenancy agreement; they sub-let or part with possession of the whole or part of the property and know that the action is in breach of their tenancy agreement.

Glossary of terms

Affordable rent – Rented housing provided by Local Authorities and Private Registered Providers (includes Housing Associations) of social housing to households that are eligible for social rented housing. Affordable rent is subject to rent controls that require a rent of no more than 80% of the local market rent.

Fixed Term Tenancy – A tenancy which runs for a fixed period of time and is reviewed, and either a new fixed term tenancy granted or terminated, at the end of the fixed term.

Notice To Quit - A formal legal notice terminating a tenancy.

Secure Tenancy – A secure tenancy means the tenant can keep their home for as long as they want, unless there is a legal reason for the landlord to repossess the home.

Senior officer review panel (SORP) – A panel of senior officers who review decisions relating to the allocation policy.

Tenancy Enforcement Panel - A group of officers that considers and approves tenancy enforcement against tenants.

Tenancy Strategy – A document which, under the Localism Act, all local housing authorities are required to produce, setting out the matters to which Registered Providers have regard to in formulating tenancy policies.

Tenancy Policy – A policy which, under the Regulatory Framework, Registered Providers are required to have in place showing various information, including: the types of tenancy they will grant, the length of any fixed terms, circumstances in which fixed term will / will not be renewed.