

MAYOR AND CABINET		
Report Title	Tenancy Strategy	
Key Decision	Yes	Item No.
Ward	All Wards	
Contributors	Executive Director of Customer Services	
Class	Part 1	Date: 20 June 2012

1 Summary

- 1.1 The Localism Act 2011 brought in the requirement for local authorities to publish a Tenancy Strategy to inform social housing landlords of Lewisham Council's expectation around tenancy arrangements. The report summarises the information contained in the draft Tenancy Strategy which is attached as an appendix.

2 Policy Context

- 2.1 The contents of this report are consistent with the Council's policy framework. It supports the achievement of the Sustainable Community Strategy policy objective:

- Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities;
- Clean, green and liveable – where people live in high quality housing and can care for and enjoy their environment;
- Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond.

- 2.2 Lewisham's Housing Strategy 2009-14 'Homes for the future: raising aspirations, creating choice and meeting need' has 5 strategic priorities the second of which is:

- 2.3 Widening housing choice and managing demand:

- We will ensure a comprehensive range of housing types and tenures are available to local people, giving them real housing

choices that are flexible to their needs and are able to adapt to their changing circumstances. We strive to make residents' housing choices as easy as possible and are working to make movement between tenures as straight-forward as possible, by providing clear and timely information and support to those that need it, and exploring new housing options that might better suit the needs and aspirations of our residents and communities.

3 Recommendations

3.1 It is recommended that the Mayor:

3.1.1 agree the draft Tenancy Strategy;

3.1.2 agree to the variation from the Mayor and Cabinet position agreed on 20th April 2011:

- review of fixed term tenancy linked to the age of youngest child amended from youngest child 18 years old, to oldest child 21 years old – to allow for further education;

3.1.3 agree that formal consultation with Registered Providers and the Greater London Authority can be undertaken;

3.1.4 agree to a one year review to be reported back to a Mayor and Cabinet meeting in 2013;

3.1.5 delegate authority to the Executive Director of Customer Services to agree and publish the final version.

4 Background

4.1 The Localism Act 2011 requires local authorities to prepare and publish a Tenancy Strategy for which registered providers of affordable housing should have regard. The strategy should cover the kinds of tenancies to be granted, the circumstances in which a tenancy of a specific type will be granted, the length of tenancies and the circumstances in which a further tenancy shall be granted.

4.2 The Council must have regard to its tenancy strategy in exercising its housing management functions and publish the Tenancy Strategy before the end of the period of 12 months beginning with the day on which the relevant section of the Act comes into force, which is expected to be around January 2013.

- 4.3 A local housing authority must keep its tenancy strategy under review, and may modify or replace it from time to time and any proposed modifications should be published.
- 4.4 The Tenancy Strategy should be publicly and easily available
- 4.5 The Tenancy Strategy should be consulted on with every registered provider in Lewisham (which is close to 60 organisations) and allow comment on the document. The contents of the Tenancy Strategy have been discussed with active providers through Lewisham Affordable Housing Group (LEWAHG)
- 4.6 Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must:
- consult such other persons as the Secretary of State may by regulations prescribe;
 - in the case of an authority that is a London borough council, consult the Mayor of London.
- 4.7 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 of the Homelessness Act 2002;
 - in the case of an authority that is a London borough council, the London housing strategy.

5 Mayor and Cabinet 20th April 2012

- 5.1 At Mayor and Cabinet on the 20th April 2011, the following position was agreed:
- On tenure, Lewisham will aim to retain security of tenure. If there is no option, the Council will consider a minimum 5 year tenancy offer and the following tenure options:
 - Lifetime tenancies for specific groups:
 - All older people (aged 65+);
 - Residents with serious permanent physical or mental vulnerabilities;
 - Flexible tenancies for:
 - families occupying large family homes that are a premium within the locality (with review when youngest child 18);

- households occupying properties that have benefitted from major adaptations;
- those with health problems regarded as temporary;
- those who face a temporary crisis from which there is a good prospect of recovery.

5.2 The minutes also recorded that:

- a strategic policy on tenancies with local housing providers which considers the impact on both Lewisham's current and future tenants be brought back to Mayor and Cabinet.

6 Tenancy Strategy

6.1 The full draft Tenancy Strategy is attached at Appendix A. It has been drafted in consultation with the South East London Housing Partnership (SELHP) to ensure some consistency across the five boroughs.

6.2 The draft Tenancy Strategy includes general background information explaining why local authorities are required to produce the document, relevant demographics providing a picture of the borough and housing need, and the Councils guidance to Registered Providers (RP) for their Tenancy Policies.

6.3 The Strategy proposes that tenants are given a minimum 5 year tenancy linked to 21st birthday of oldest child with some exceptions requiring a secure or assured tenancy. This differs slightly from the SELHP proposal to link to the 18th birthday.

6.4 The exceptions relating to 6.3 above would be where existing tenants with assured or secure tenancies are moving for decant, under occupation or fleeing violence, intimidation, harassment or hate crime reasons and should therefore be offered an equal level of security as they currently have. In addition to this a lifetime tenancy should normally be offered to any person aged over 60 years old with no prospect of under occupation or any single person/couple who become the tenant of a wheelchair accessible home with no prospect of under occupation or not needing a wheelchair home.

7 Consultation

7.1 As part of the review of the Allocations Policy full consultation with residents of the borough was undertaken and has been reported separately as part of the Mayor and Cabinet report detailing the changes. As part of this consultation, we also sought residents views on fixed term

tenancies, the results of which are contained as an appendix to the Tenancy Strategy.

7.2 See below a summary of the responses:

- **Who should get a lifetime tenancy?**

People with long term mental or physical disability (77.29%) and people over 65 years old (76.93%) were the most strongly supported categories for lifetime tenancies.

- **How long do you think the minimum period should be for the grant of a flexible tenancy?**

5 years was the most popular choice as the minimum period for a flexible tenancy (43.78%).

7.3 Consultation with providers to date has been informal and predominantly through LEWAHG and quarterly liaison meetings with the larger providers. If Mayor and Cabinet agree the Tenancy Strategy a formal consultation will take place which will include each of the registered providers in the borough being sent a copy of the draft for comment.

7.4 As required through legislation a copy will also be sent to the GLA for comment.

7.5 All comments will be fully considered and where operational issues are highlighted and evidenced changes will be made. If these changes affect the fundamental basis of the document it will be brought back to Mayor and Cabinet.

8 Financial Implications

8.1 The purpose of the report is to seek agreement to the Tenants Strategy. The strategy, as set out in appendix A, has no financial impact on the Council. There are, therefore, no financial implications arising from this report.

9 Legal Implications

9.1 The Localism Act 2011 received Royal Assent in November 2011. Chapter 2 of Part 7 of the 2011 Act is relevant to social housing, tenure reform and specifically relates to Tenancy Strategies. Sections 150, 151 and 152 of the 2011 Act came into force on 15th January 2012.

9.2 Section 150 (1) of the 2011 Act obliges local housing authorities in England to prepare and publish a “tenancy strategy” setting out “...the

matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to —

(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. “

(b) Section 105(2) of the 2011 act provides that a Tenancy Strategy must summarise those policies or explain where they may be found.

9.3 In accordance with the provisions of Section 105 (4) “A local housing authority must publish its tenancy strategy by no later than the 14th January 2013.

9.4 Then, by virtue of s. 105(5) A local housing authority must keep its Tenancy Strategy under review, “... and may modify or replace it from time to time”. If however a local housing authority does modify its Tenancy Strategy, “ it must publish the modifications or the strategy as modified (as it considers appropriate)...” (s. 105 (6)).

9.5 Procedurally, 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. “

9.6 Consultation requirements before adopting a Tenancy Strategy are expressly provided for within section 151 of the 2011 Act as follows: “the Authority must “1(a) send a copy of the draft strategy, ..., 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...[s. 151(2)(b)], and ... consult the Mayor of London.“

9.7 Section 151(3) further provides that “the authority must, in preparing [or modifying] a Tenancy strategy, have regard to— (a) its current allocation scheme under section 166A of the Housing Act 1996, (b) its current homelessness strategy under section 1 of the Homelessness Act 2002, and (c)... the London Housing strategy. “

9.8 The European Convention on Human Rights states in Article 8 that “Everyone has the right to respect for his private and family life, his home and correspondence”. The Human Rights Act 1998 incorporates the

Convention. Whilst it does not, however, necessarily mean that everyone has an immediate *right* to a home, (because Article 8 is a “qualified” right and therefore is capable in certain circumstances, of being lawfully and legitimately interfered with,) the provision by an Authority of a relevant Tenancy Strategy and proactive Allocations Policy does assist to reinforce the Article 8 principles.

- 9.9 The Equality Act 2010 brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.10 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 9.11 As was the case for the original separate duties, the new duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 9.12 The Equality and Human Rights Commission issued guides during January 2011 providing an overview of the new equality duty, including the general equality duty, the specific duties and who they apply to. The guides cover what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guides were based on the then draft specific duties so are no longer fully up-to-date, although regard may still be had to them until the revised guides are produced. The guides do not have legal standing unlike the statutory Code of Practice on the public sector equality duty, However, that Code is not due to be published until April 2012. The guides can be found at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>

10 Crime and Disorder Implications

- 10.1 The Tenancy Strategy outlines the expectation that a person (or family) fleeing violence, intimidation, harassment or a hate crime should be offered a tenancy of equal security to the one that they are leaving. Therefore a person leaving an assured or secure tenancy should be given a lifetime tenancy.

11 Equalities Implications

- 11.1 Consultation on Fixed Term Tenancies formed part of the wider consultation for the revisions to the Allocations Scheme.
- 11.2 Anticipating that the introduction of FTT for affordable housing may impact negatively on certain protected characteristics, the Tenancy Strategy is intended to mitigate these impacts by asking RP's to provide secure (or lifetime) tenancies for certain groups.
- 11.3 An EAA has been drafted and is expected to complement the EAA for the Revisions to the Allocations Scheme.

12 Environmental Implications

- 12.1 There are no specific environmental implications for this report.

13 Conclusion

- 13.1 The Tenancy Strategy is a requirement of the Localism Act 2011 to provide guidance for registered provider landlords in the borough when letting their properties. A review will be undertaken after the Strategy has been in place for one year.

14 Background documents and originator

If you have any queries relating to this report please contact Louise Spires (Strategy, Policy and Development Manager) on x46649

APPENDIX A – Tenancy Strategy

APPENDIX B – Draft Equalities Analysis Assessment