

# CHESHIRE EAST COUNCIL

## Cabinet

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**Date of Meeting:** 20<sup>th</sup> August 2012

**Report of:** Strategic Director Places and Organisational Capacity

**Subject/Title:** Tenancy Strategy

**Portfolio Holder:** Cllr Jamie Macrae, Portfolio Holder for Prosperity

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### **1.0 Report Summary**

- 1.1 The Localism Act 2011 places a requirement on all local authorities to produce a Tenancy Strategy which outlines their approach to flexible tenancies and enables Registered Providers of social housing to formulate their own tenancy policies. This report outlines the content of the Cheshire East draft Tenancy Strategy.

### **2.0 Decision Requested**

- 2.1 To approve the Tenancy Strategy and to authorise Officers to take all necessary actions to implement the Strategy.

### **3.0 Reasons for Recommendations**

- 3.1 The Localism Act 2011 places a duty on local housing authorities to prepare and publish a Tenancy Strategy within 12 months of enactment.
- 3.2 The draft Cheshire East Tenancy Strategy articulates our approach to flexible tenancies and will influence the development of Registered Providers' Tenancy Strategies.

### **4.0 Wards Affected**

- 4.1 All wards

### **5.0 Local Ward Members**

- 5.1 All Local Ward Members

### **6.0 Policy Implications including - Carbon reduction - Health**

- 6.1 Housing is fundamental to the well being and prosperity of our residents. There are direct connections between access to affordable, sustainable housing and health, educational attainment, carbon reduction and care for

older people. The Tenancy Strategy aims to ensure that access to limited social housing stock is fair and transparent.

## **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 There are no direct financial implications regarding implementation of the Strategy. However, the report notes changes to the welfare system; any related implications will be considered and reported separately.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The Localism Act 2011 (sections 150 - 151) places a duty on all Local Authorities to prepare and publish a Tenancy Strategy within 12 months of the provision coming into force. The strategy has to set out the matters to which registered providers of social housing in its district are to have regard to in formulating policies relating to tenancies and should contain the following:

- The kind of tenancies they grant,
- The circumstances in which they will grant a tenancy of a particular kind,
- Where they grant tenancies for a term certain, the lengths of the terms and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

Before adopting a Tenancy Strategy or modifying it Local Authorities must:

- Send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and
- Give the private registered provider a reasonable opportunity to comment on those proposals.
- Consult such other persons as the Secretary of State may by regulations prescribe.

The authority must also have regard to:

- Its current allocation scheme under section 166A of the Housing Act 1996,
- Its current homelessness strategy under section 1 of the Homelessness Act 2002

## **9.0 Risk Management**

- 9.1 The Tenancy Strategy outlines the circumstances in which Registered Providers have to take due regard when considering the type of tenancy to issue to a tenant. There is no legal requirement for Registered Providers to adhere to the Council's strategy and therefore when formulating their policies they may decide not to follow the guidance of the Local Authority.

We have taken mitigating action by working with the three main Registered Providers to ensure that the strategy is workable for them.

- 9.2 A twelve week consultation period has allowed the general public and stakeholders to comment on the draft strategy, adhering to the requirements of the Localism Act 2011.

## **10.0 Background and Options**

- 10.1 The Localism Act 2011 places a duty on all local authorities to produce a Tenancy Strategy which sets out the matters which Registered Providers of social housing should have regard to when formulating their own tenancy policies. The act introduced flexible tenancies which enables Registered Providers (RPs) the ability to grant fixed term tenancies for a period of no less than 2 years. RPs can determine the type and duration of a tenancy offered to new tenants, including retaining lifetime tenancies.
- 10.2 Registered Providers will have to review their own Tenancy Management policies having due regard to the local authority Tenancy Strategy. It will ultimately be the RPs' decision what their tenancy management policy should be and what types of tenancy they will offer, but there is an expectation from the Government that RPs will work with local authorities to establish an approach which meets the needs of the local community.
- 10.3 In 2011 the Strategic Housing team started a process of consultation with RPs in order to work with them to produce a strategy which would meet the priorities of the authority, whilst ensuring that we did not make it too restrictive and unworkable for Registered Providers.
- 10.4 When developing the Tenancy Strategy consideration was given to Cheshire East Sustainable Community Strategy, along with the priorities for action including:
- Nurture strong communities – support the community to support itself
  - Support our children and young people - ensuring that all our children and young people make good progress in their learning regardless of where they live
  - Ensure a sustainable future - Provide affordable and appropriate housing
- 10.5 Our Housing Strategy, adopted in 2011, articulates our vision for housing including making the best use of existing stock and meeting the needs of our most vulnerable residents. Whilst the draft Tenancy Strategy ensures that we are making the best use of the limited social housing stock by introducing flexible tenancies, we need to ensure that the needs of some of our most vulnerable families and those with special needs are taken into consideration. Granting two year flexible tenancies as a blanket policy could potentially have a detrimental effect on our communities, and threaten children's educational attainment and the ability of some applicants

to have the opportunity to sustain a tenancy for a period of time to enable them to turn their lives around. Constant movement of residents could also impact on the sustainability of our communities. We have therefore advised RPs to take this into account when producing their own tenancy policies.

- 10.6 In 2013 we will see a series of the most significant changes to our welfare benefit system. We anticipate that the impact will include:
- increased demand for social housing as properties within the private rented sector become less affordable as a result of the reduction in Local Housing Allowance rates and the cap on benefit entitlement. Whilst flexible tenancies will not increase the level of accommodation available it will ensure that those in most housing need will be able to access housing.
  - Households having to seek alternative accommodation or bridge the gap between their Housing Benefits and their rent, as Housing Benefit entitlements change to reflect the family size; those households who are occupying a larger property than their household size warrants will experience a reduction in the housing benefit. The Tenancy Strategy emphasises the need for RPs to address under-occupation and overcrowding within their own policies and the Council's revised Allocations Policy has also taken this into account by giving additional priority to those that need to move due to changes in the welfare system.
- 10.7 **Consultation** - A workshop took place in November 2011 with both Members of Cheshire East and Board Members of the three main Registered Providers where the issue of flexible tenancies was debated. The comments and opinions influenced the development of the draft strategy.
- 10.8 During the consultation period a report was taken to the Environment and Prosperity Committee (24<sup>th</sup> April 2012) where the draft strategy was presented. The Tenancy Strategy was endorsed by the Committee.
- 10.9 A twelve week consultation period took place between March and June 2012 which gave Registered Providers, Stakeholders and the general public the opportunity to make comments on the Strategy.
- 10.10 We received 44 responses to the consultation:
- Cheshire East residents – 36 responses  
Registered Providers – 4 responses  
Community or Voluntary Groups – 1 response  
Other – 3 responses
- 10.11 Overall there was a positive response to the draft strategy with only one respondent disagreeing with the strategy vision and aim.

10.12 Comments included the need for more housing and responses from Registered Providers indicated where they felt that they could not adhere to the strategy which included:

- One Registered Provider advised that they will only be using flexible tenancies on affordable rent properties and therefore will not be in a position to allocate five-year flexible tenancies to households without children on all new lets, or provide lifetime tenancies for those families accessing larger family accommodation.
- Clarification was sought on one of the points within the Circumstances in which a tenancy would not be granted and related to changes in tenant's circumstances where a tenant has demonstrated a high enough income to comfortably afford market housing (to purchase) and arguably the social housing they are occupying would be better used by someone in greater need.

Both of these points were discussed by the Working group and it was felt that:

- The Tenancy Strategy allows the flexibility for Registered Providers to grant flexible tenancies where they feel it is most appropriate taking into consideration the circumstances of the applicants and the area – no further changes are therefore required to the Tenancy Strategy.
- In relation to the ability to determine if an applicant's income would enable them to seek alternative accommodation, It was decided that further clarification was required and an amendment has been incorporated into the Strategy within "circumstances in which a tenancy would not be granted" and now includes:

In making this judgement consideration should be given to:

- Median cost of a similar property in a similar location.
- Total income
- Expenditure
- Eligibility for a mortgage, taking into account the age of the applicant and the mortgage term required.

10.13 Overview of the Tenancy Strategy:

Contained within the strategy's vision are the issues we would expect an RP to consider when determining tenancy terms including:

- Enabling families to grow and develop without the threat of having to uproot their children from schools, which could threaten their educational attainment.
- Enable those with special needs to establish support networks, access services and have a property adapted if necessary.

- Give those needing an opportunity to turn their lives around the ability to access settled accommodation for an appropriate period of time.
- Make the best use of our housing stock, reducing levels of under occupation and overcrowding across the authority.

10.14 When developing the strategy consideration was given to the local context, the local housing market, affordability rates, housing need and demand. The findings are outlined within the strategy.

**11.0 Type of tenancies** -The strategy outlines the type of tenancies available to RPs which includes:

- Full assured social rent
- Full assured affordable rent
- Fixed-term social rent
- Fixed term affordable rent

The Strategy outlines our belief that RPs should grant the most secure form of tenancies which are compatible with the purpose of the accommodation, the needs of the individual households, sustainability of the community and the efficient use of their housing stock and we have recommended that:

- Fixed-term tenancies should normally be offered for a minimum period of five years, including any probationary period.
- In certain circumstances, tenancies exceeding a five year period (for example a lifetime tenancy) may be granted for some tenants where appropriate, in order to provide an additional degree of stability and security. Cheshire East Council recommends that the following circumstances should be given due regard for tenancies exceeding five years: households who have dependent school-aged children attending a local school; those living in adapted properties, and those with long-term support needs.

**12.0 Renewal of tenancies** – The draft strategy outlines our expectation that in the majority of cases renewal of tenancies should take into consideration the current circumstances of the household and the need for a property of the type and size that they presently occupy. It is also stated that in the event that a tenancy is not renewed due to under occupancy then the household would be given priority in line with Cheshire East's Allocations Policy.

**13.0 Circumstances in which a tenancy would not be granted** -The strategy states that in the following circumstances registered providers may consider not renewing the tenancy and these include:

- Property under-occupied (this may not apply to young childless couples or those with families that may expand)
- Property which is severely overcrowded – as defined in line with the Allocations Policy (to prevent low quality housing conditions developing)
- Suitability of property, e.g. (where a property could suit the needs of another potential occupier of greater need- a bungalow for an elderly couple or an adapted property that is no longer occupied by a person needing those adaptations.
- The tenant has been a perpetrator of domestic violence -victims of domestic violence who need to move to a more suitable location would be dealt with via tenancy management, as well as tenants suffering harassment or needing to move under the witness protection programme.
- To balance tenant mix in an estate/development - this would need to be linked into any local lettings policies or neighbourhood/estate plans where they are used.
- Change in tenant's circumstances - tenant has demonstrably a high enough income to comfortably afford market housing (to purchase) and arguably the social housing they are occupying would be better used by someone in greater need. Further clarification has been given by adding: In making this judgement consideration should be given to:
  - Median cost of a similar property in a similar location.
  - Total income
  - Expenditure
  - Eligibility for a mortgage, taking into account the age of the applicant and the mortgage term required.
- The conduct of the tenant throughout the fixed term is deemed to be unacceptable- this could include anti social behaviour, rent arrears or property management issues.

**13.1** The strategy outlines what is expected of Registered Providers should they not renew a tenancy, which includes giving six months notice and providing the tenant with housing advice which will enable them to make informed housing decisions.

## **14.0 Access to Information**

The full draft Tenancy Strategy is attached to this report:

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