

Annex B - HF Tenancy Strategy

Hammersmith & Fulham Council

Tenancy Strategy

November 2015

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1. What is the Tenancy Strategy and why have one?

1.1 Summary

1.2 The 2011 Localism Act places a statutory duty on local authorities to produce a Tenancy Strategy which should set out the local authority's approach to tenure reform in the social housing sector. Section 150 (1) and (2) states the following:

(1) A local housing authority in England must prepare and publish a strategy (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 certain 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

(2) The tenancy strategy must summarise those policies or explain where they may be found

1.3 In this document, we describe the current 'state of play' in respect to the Council's own stock as Registered Provider for its own stock and that owned and managed by housing associations (also known as Private Registered Providers) partners, for the purposes of this document described as Housing Associations.

1.4 This Tenancy Strategy will replace the Tenancy Strategy adopted in October 2012.

2. Hammersmith & Fulham's Tenancy Strategy Approach

2.1 A key theme of the administration's manifesto commitments was to improve security of tenants and also help ensure housing costs could remain affordable.

2.2 Historically, tenancies issued by local authority registered providers and housing association private registered providers (called housing associations) are broadly similar, inasmuch they are 'lifetime' tenancies. This means that tenants have the right to stay in the property unless the landlord can convince the court that there are special reasons to evict them, for example, the tenant has not paid the rent and service charges, is not living at the property, has sublet or has broken another condition of the tenancy. All new Hammersmith and Fulham tenants will be introductory tenants for the first 12 months of the tenancy.

2.3 There are opportunities for succeeding the tenancy if the tenant dies, principally spouses/partners/civil partners and/or household members who have resided at the property for at least 12 months. Succession rules changed for tenancies granted after 1 April 2012 and individual tenants should check their tenancies as to what rules apply to them. The policy position on discretionary succession will also be set

out in the latest Council Housing Allocation Scheme document which sets out the 'rules' by which affordable rented accommodation is allocated.

- 2.4 On security of tenure, it is Council policy to issue 'lifetime' secure tenancies for its council tenancies except in the limited circumstances set out below. .. The Council also recommends to its housing association partners that their equivalent tenancy, the Assured Tenancy, should be adopted rather than adopting Assured Shorthold Tenancies. However, we recognise under the funding regime adopted by the Mayor of London and that policies adopted by both the Council and housing associations must be in 'general conformity' with his Housing Strategy, housing associations have changed their approach to both tenancies and rents. Some housing associations are now issuing five year fixed term Assured Shorthold Tenancies and are charging affordable rents that can be twice what they are charging their existing tenants. The Council recognises that the Affordable Rent regime and the more commonplace adoption of Assured Shorthold Tenancies is a result of a change in national policy, but nonetheless consider that some local discretion can be applied to improve affordability and security of tenure.
- 2.5 The Council has relatively limited powers to exert change on our housing association partners' work, but where the Council provides funding or land for development or other tangible support, in the absence of any GLA funding, it will seek additional value – through lower rents and lifetime tenancies - where appropriate.
- 2.6 For housing associations, the Council expects them to have regard to this Tenancy Strategy when developing tenancy policies and granting tenancies in Hammersmith & Fulham area. These decisions may be impacted by GLA grant conditions for new affordable housing broader changes applied following the 2011 Localism Act. Where the Council directly or indirectly facilitates the delivery of new housing through use of public land; commuted sums; or other intervention, then the Council would seek to ensure that the housing association concerned delivers rents and tenancies that broadly conforms with this Tenancy Strategy, namely Assured Tenancies, charged at target rents (i.e., social rents).

3. Use of Fixed Term Tenancies (also known as Flexible Tenancies)

- 3.1 The Council in its Housing Strategy states that it will use fixed term tenancies for "certain categories of applicant". This section sets out the categories of applicant and what types of tenancy will be granted. There are two categories of applicant that the Council may grant fixed term tenancies for:
- 3.2 Where the Council adopts a Local Lettings Plan which will involve varying the 'rules' of the Housing Allocation Scheme which enables applicants to access the Housing Register. The Council will consult with tenants who are affected by the change in policy. Such a change in policy may involve giving allocations priority to certain categories of applicant from the Housing Register or the Home Buy Register. Where the Council proposes a Local Lettings Plan, it will publish a draft document and undertake a consultation process, which sets out what kinds of tenancies are going to be proposed. These will either be 2 year or 5 year fixed term tenancies which can be renewed, both of which will be preceded by a 1 year introductory tenancy.

- 3.3 Where the council is satisfied the proposed tenant (or a member their household) has been guilty of anti social behaviour which makes him or her unsuitable to be a tenant, a 2 or a 5 year fixed term tenancy may be proposed. Examples of such behaviour include; anti social behaviour which has caused a nuisance; threats or actual violence against neighbours, council staff, managing agents or contractors; or a conviction of a serious offence of harassment or violence against a person or against property.

Tenancy Renewal – Our Proposed Approach

- 3.4 The Council is required by the Localism Act to set out the circumstances in which tenancies will be renewed. This section sets out the Council's proposed approach to tenancy renewal. This will apply to accommodation owned and managed by the Council in its landlord role. where the conditions of the tenancy have been complied with and the applicant's (i.e., the tenant's) personal circumstances have not changed, the Council will generally grant a further tenancy.
- 3.5 Where the conditions of tenancy have not been complied with and/or the applicant's personal circumstances have changed, the Council will consider (among other matters) the nature and degree of the breach or change. Such circumstances may include: non-payment or late payment of rent; anti social behaviour; criminal behaviour; failure to keep the premises in good and proper condition; under-occupation; statutory overcrowding; keeping of a dangerous dog; or other breach of the Tenancy Agreement.
- 3.6 The Council will adopt the following approach to tenancy renewals:

Stage 1 - Nine months before the tenancy is due to expire, write to the tenant(s) concerned asking them to submit a new Housing Register application to continue remaining in the property they occupy, giving them the opportunity to update the Council of their circumstances.

Stage 2 - During the six and nine months period before the tenancy is due to expire, the Council will review the tenant(s) housing needs and state before the six months date of expiry whether it is minded to renew the tenancy or not and give appropriate reasons for the latter. Where the tenant does not submit an application form within seven months of the expiry date, the Council will take the view that the tenant(s) does not wish to continue occupying the home. A tenancy check will be undertaken as part of this process.

Stage 3 – The tenant(s) will have the opportunity to ask the Council to review a decision (as set out in the Government Regulations) where a notice of non renewal has been issued. This must be requested by the tenant(s) within 21 days of the notice. The review will consider whether the decision not to renew is in accordance with the Council's policy (as set out in the Tenancy Strategy and the Housing Allocation Scheme).

Stage 4 - In the event that the review process has been unsuccessful for the tenant, a notice will be issued to the tenant(s) giving at least two months' notice stating that

the Council requires possession. This notice must be issued on or before the fixed term expires.

- 3.7 As set out in Stage 1, where tenants wish to have their tenancy renewed, they will be invited to submit a fresh housing register application. This will in effect be a consideration of the original application with any updated information (e.g., contact details; ages of children; place of work; disability issues; special considerations, etc). The onus will be on the tenant to ensure that the housing registration form is fully completed and submitted in good time for consideration.

Length of Tenancy Renewals

- 3.8 Where the Council renews a tenancy it will generally be for the same period that it was originally granted,) if the Housing Registration criteria identified above have been met. In exceptional circumstances, a 2 year tenancy may be granted following a 5 year term if there has been a breach of one or more of the conditions of tenancy. There will be no introductory (or probationary) tenancy for renewals unless there are exceptional circumstances which will be considered and approved by the panel of senior housing officers. Such circumstances could include persistent late and/or non-payment of rent and/or service charges; anti-social behaviour including causing loss of other tenants' quiet enjoyment of their home.

Review Procedures relating to the Offer of a Flexible Tenancy and Flexible Tenancy Renewals

- 3.9 An applicant may seek a review of the offer of a flexible tenancy or a decision not to renew a flexible tenancy. He/she has 21 days from receipt of the notice or decision to request a review.
- 3.10 In both instances set out above, the basis for renewal of such a tenancy will be raised with the tenant when the renewal process is due to begin, approximately 9 months before the tenancy is due to expire or any other reason that the Director of Housing decides.

4. Affordable Rents in the Borough

- 4.1 One of the objectives of the National Government through its *Future for Social Housing* consultation paper and the 2011 Localism Act that followed it was to generate additional revenue from the rental stream of new affordable housing, with the intention of alleviating the capital cost of housing development. This meant rather than adopting rents which were generated from individual housing associations' policies – mostly 'target rents' - the intention was to link affordable rents to those of the local housing market.
- 4.2 The Council's preference is that rents should be aligned as close as possible to 'target rents', i.e., social rents for individual housing associations and be affordable to people on low incomes in the Borough. The Council recognises that where schemes are funded by the Greater London Authority, rents charged may be either Discounted Rent (up to 80% of local market rents) or Capped Rent (up to 50% of local market rents), both inclusive of service charges. Where new social or affordable

rented homes are proposed, 'in year' indicative rents and service charges for comparative purposes should be set out. In calculating social and affordable rents, developers should have regard to the Mayor of London's *London Rents Map* (which uses up to date housing costs information from the Valuation Office Agency) for comparative purposes.

- 4.3 For guidance purposes, the Council will publish 'indicative rents' on its website based on affordable rents charged for that financial year in the borough that will give residents, housing associations and developers to 'benchmark' the level of rents the Council would expect to see charged. Our preference remains to support the delivery of rented homes charged at 'target rents', i.e., social rents, but the Council is also aware of the impact of service charges (which are excluded from the 'target rent' regime), particularly in high density developments. The Council would not expect target rents plus service charges to exceed Capped Rents described above and will expect service charges to be kept to an affordable minimum. The Council believes careful consideration to the design of new homes can help minimise costs derived from service charges.

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