

BABERGH DISTRICT COUNCIL

TO: Babergh Cabinet	REPORT NUMBER: BCa/22/40
FROM: Councillor Jan Osborne Cabinet Member for Housing	DATE OF MEETING: 09/01/23
OFFICER: Deborah Fenton, Director for Housing	KEY DECISION REF NO. CAB352

TENANCY POLICY

1. PURPOSE OF REPORT

- 1.1 This briefing note provides context for the proposed Tenancy Policy for tenants of Babergh and Mid Suffolk District Councils. It should be read in conjunction with the Tenancy Policy (Appendix A).
- 1.2 The policy will ensure that Babergh & Mid Suffolk Councils (BMSDC) comply with the Regulator of Social Housing (RSH) Tenancy Standard, current legislation, and best practice.
- 1.3 The Tenancy Policy is in-line with the direction of travel in Government policy and proposes that the Councils continue to provide long-term security of tenure and the letting of the Councils' homes. There are no significant changes to our current practice of tenancy management, or the rights of existing or new tenants proposed in the new policy.

2. OPTIONS CONSIDERED

- 2.1 At an 'Early Warning' Cabinet Briefing on 26th September 2022, Cabinet members considered the following fundamental decision in the Tenancy Policy:
- 2.2 Option 1: to continue the current practice of granting Secure Tenancies which provide long-term security of tenancy, or;
- 2.3 Option 2: to grant Flexible (fixed term) Tenancies which only provide security for a short period of time (typically 5 years).
- 2.4 In light of the changes in Government agenda and the Housing Sector in recent years (please refer to explanatory note in Appendix B), and mindful of Government's intention to abolish fixed-term tenancies in private and social housing by 2030, Cabinet members voted in favour of Option 1, for Secure Tenancies to remain the primary form of tenancy for Council tenants. The Tenancy Policy has therefore been created to confirm and clarify the Councils' current practice of providing and managing tenancies.

<p>3. RECOMMENDATIONS</p> <p>3.1 To approve the Tenancy Policy (Appendix A)</p>
<p>REASON FOR DECISION</p> <p>3.2 The Tenancy Policy meets the requirements of the Regulator for Social Housing, providing information for tenants to understand how their occupation of Council homes will be managed.</p> <p>3.3 Consistent with the current political agenda for social housing the Tenancy Policy prioritises long-term security of tenure for tenants over tenancies of a fixed length. This will allow tenants and their families to create a home in Council properties and build thriving and diverse communities in our housing estates.</p> <p>3.4 In the time elapsed since their introduction, fixed term tenancies have been proven to be a largely ineffective in providing their anticipated benefits of reducing housing waiting lists. Managing and administering Flexible fixed term tenancies has proven to be costly and time consuming for landlords, and unsettling for tenants, particularly vulnerable tenants and those suffering with mental illness.</p> <p>3.5 The Councils will create a new, separate policy which will support efficient use of the Councils' housing stock by encouraging tenants to downsize. Such policy is included in the Homes and Housing Strategy (objective 2g) and may include provide financial incentives, advice and practical support to tenants who are under-occupying their homes to assist and encourage them to free-up larger homes for families.</p>

4. KEY INFORMATION

- 4.1 The landlord and tenant relationship is governed by the tenancy agreement. The Housing Acts and associated legislation provide a legal framework for the tenancy agreement and the majority of rights and obligations are set out in law.
- 4.2 In addition to the statutory provisions in the tenancy agreement, the landlord may set out additional contractual rights or obligations in the tenancy agreement, however these cannot take away or lessen the statutory rights.
- 4.3 The Tenancy Policy provides an explanation of how BMSDC will operate within the statutory requirements and flexibilities afforded to it. This is a requirement of the Regulator for Social Housing (RSH) as set out in the 'Tenancy Standard'.
- 4.4 The proposed Tenancy Policy does not require any material amendments to the Tenancy Agreement which was approved by the Councils in 2015. If there are any significant changes to the policy decided by Cabinet, a revised tenancy agreement will need to be prepared for approval at a future date.
- 4.5 Flexible (fixed term) Tenancies
- 4.6 The Councils have the flexibility to create a policy to offer tenancies of a limited length, known as Flexible (fixed term) Tenancies.

- 4.7 Long-term security of tenure was introduced for Council housing tenants by the Housing Act 1980 (later consolidated into the Housing Act 1985) and the introduction of the 'Secure Tenancy'. Long-term security of tenure has been generally considered an important and attractive aspect of social housing in England since its introduction. Long-term security of tenure means, with some limited exceptions, that if a Secure tenant does not breach the conditions of their tenancy agreement they cannot be evicted from their home.
- 4.8 The Localism Act 2011 introduced a power for local authorities and housing associations to offer 'flexible (fixed term) tenancies' to new social tenants after 1 April 2012. Flexible tenancies have a minimum term of two years, the maximum duration is a policy decision for the landlord. The Government's rationale for giving social landlords more flexibility over the length of tenancy offered was that a "one size fits all" model was no longer appropriate and was seen to contribute to under- and over-occupation.
- 4.9 There was a limited take-up of fixed-term tenancies by councils and housing associations, in 2014/15 a report found that only 15% of social housing tenancies were let on a fixed-term basis.
- 4.10 Government made provision to mandate the issuing of Flexible (fixed term) Tenancies in the Housing and Planning Act 2016. Regulations setting out the detail of how local authorities would operate this new regime were expected; however, on publication of the social housing Green Paper on 14 August 2018, [A new deal for social housing](#), the Government announced that it will not implement these provisions "at this time".
- 4.11 The Social Housing White Paper was published on 17 November 2020. An underpinning theme of the White Paper is to address the stigma and treatment of tenants in social housing. The Paper described how tenants have been made to feel like 'second class citizens' and a shift is needed in the way they are treated and perceived in our Society. The balance has shifted significantly from treating social housing as one aspect of the welfare system and towards promoting equality and inclusion of tenants in communities. The Councils are committed to tackling stigma with policies which enhance inclusion and provide for quality homes and services for tenants.
- 4.12 Landlords across the social housing sector who had implemented fixed term tenancies have, or are in the process, of moving back to long-term security of tenure for tenants because in practice, fixed term tenancies do not produce their anticipated benefits and are extremely resource intensive (Appendix B).
- 4.13 The Government's long awaited white paper on rental reform was published in June 2022 announcing the abolishment of fixed term tenancies by 2030, signalling the potential of an end to the current flexibilities provided.

5. LINKS TO CORPORATE PLAN

- 5.1 Our housing vision is for residents to live in affordable and high-quality homes that enable them to build settled, safe and healthy lives, within sustainable and thriving

communities. The recommendation to provide secure tenancies for life better fits the current housing vision than the adoption of Flexible (fixed term) tenancies.

6. FINANCIAL IMPLICATIONS

- 6.1 The Councils will invest in a Downsizing Incentive Scheme to support individuals to move to suitable alternative accommodation when their needs change. We are currently engaging with tenants to design a scheme which will result in improved mobility for tenants, the policy to be brought before Cabinet for implementation in 2024.

7. LEGAL IMPLICATIONS

- 7.1 The policy has been reviewed by Counsel and has been confirmed as fit for purpose.

8. RISK MANAGEMENT

Risk Description	Likelihood	Impact	Mitigation Measures
Long-term security of tenure may lead to unwanted under-occupation of Council homes, which in turn leads to families waiting longer for a property suitable for their needs	Medium	Low	Formulation of a Downsize Incentive Scheme will encourage and support tenants to move to suitable accommodation. Tenants who are in receipt of benefits are affected by the 'bedroom tax' which provides a financial disincentive to remaining in a home which is larger than they need. Promotion of mutual exchange scheme will encourage moves. Improved data collection on households will enable targeted contact with tenants under-occupying.

9. CONSULTATIONS

- 9.1 *Engaged tenants, the 'Resident Readers' will review the tenancy policy for accessibility and content prior to Cabinet.*
- 9.2 We are in the process of consulting with our tenants to establish a Downsize Incentive Scheme which is attractive to tenants and encourages tenants to downsize.

10. EQUALITY ANALYSIS

- 10.1 An Equality Impact Assessment (EIA) screening has been completed and no EIA is required (Appendix C).

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 There are no environmental implications arising from this report.

12. APPENDICES

Title	Location
(a) Draft Tenancy Policy for Babergh and Mid Suffolk	Attached
(b) Explanatory note: Social Housing Policy Context: Flexible (fixed term) tenancies	Attached
(c) EIA Screening	Attached

13. BACKGROUND DOCUMENTS

n/a

14. REPORT AUTHORS

14.1 Robert Longfoot – Tenancy Services Corporate Manager