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**Meeting:** Executive  
**Date:** 18 March 2013  
**Subject:** Tenancy Strategy 2013 - 2018  
**Report of:** Cllr Carole Hegley, Executive Member for Social Care, Health and Housing.

**Summary:** The report proposes that the Council adopts a Tenancy Strategy 2013-18, in order to fulfil the requirements of the Localism Act 2011. The report summarises the feedback received during a formal 12 week consultation, and draws attention to particular areas of debate which have been considered by a Member Task Force and the Social Care, Health and Housing Overview and Scrutiny Committee.

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**Advising Officer:** Julie Ogley, Director of Social Care, Health and Housing  
**Contact Officer:** Tony Keaveney, Assistant Director - Housing Services  
**Public/Exempt:** Public  
**Wards Affected:** All  
**Function of:** Executive  
**Key Decision** Yes  
**Reason for urgency/  
exemption from call-in  
(if appropriate)** Not applicable

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

- Improved educational attainment. The Council is proposing measures in the Tenancy Strategy that will support children to continue their education within the same educational establishment; should the Tenancy Strategy result in a home move for their household.
- Promote health and wellbeing and protect the vulnerable. The Council is proposing measures in the Tenancy Strategy that will protect households with health or other support needs.

### **Financial:**

1. It is likely that the initial implementation of the Tenancy Strategy will increase the cost of housing management to the HRA to some extent. The additional costs will be contained within the HRA budget. These costs are anticipated to arise from:-

- (a) Increased void costs as a result of increased turnover of stock.

(b) Increased costs arising from the implementation of a Tenancy Training and support scheme; increased visits to tenants throughout the fixed term (yearly visits are proposed); and the tenancy review process, which will entail training or recruiting for specialist knowledge to conduct financial assessments.

2. In the longer term, the Tenancy Strategy, alongside associated changes to the Central Bedfordshire 'housing offer', has the potential to achieve savings in the following areas-:

- (a) reducing under-occupation will allow better value for money to be obtained from the funding available for new social rented properties;
- (b) shorter waiting times for new housing applicants could reduce the cost of managing the housing waiting list;
- (c) tighter sanctions against poor tenancy conduct could reduce the costs to the council of anti-social behaviour and poor upkeep of properties by their tenants;
- (d) more frequent, supportive contact with tenants, has the potential to reduce the cost of tenancy failure and abandonment of properties;
- (e) there is potential to reduce benefit dependency as a new generation of 'fixed term' council tenants strive to move up the housing ladder, aided by the improved availability of intermediate market products, in order to achieve a 'forever home'; and
- (f) tighter ring-fencing of social rented homes to those in financial need has the potential to reduce marginal private renting and the associated poverty trap.

**Legal:**

3. The Localism Act 2011 requires local authorities to publish a Tenancy Strategy. The law requires that the Tenancy Strategy contains certain information and that the Council has consulted on the proposed strategy prior to adoption. All of these requirements have been met.

**Risk Management:**

4. The key risk, inherent in the Tenancy Strategy, is that the Council fails to develop options and initiatives to enable people to move on from social housing at the end of a fixed term tenancy. The Tenancy Strategy aims to make best use of the social housing resource and to offer tenants advice and assistance to enable them to secure alternative permanent accommodation in the private rented sector; or to remain in their existing accommodation through 'pay to stay' type initiatives; or, to purchase housing on either a part share or to own outright in the open market.

5. The primary mitigation of this risk is to implement change to the local housing system as a whole, so that the supply of alternative accommodation is sufficient to mitigate the risk that people are not able to join the housing ladder, at such time as they no longer require the benefit of social housing.

6. The Tenancy Strategy mitigates the risk of non compliance with the legal requirements of the Localism Act and also the non delivery of the Council's priorities.
7. There is a risk that the Strategy is not implemented in a consistent and equitable way. This will be mitigated by the development and maintenance of detailed procedural policies, which will be subject to continual review.

**Staffing (including Trades Unions):**

8. Not applicable.

**Equalities/Human Rights:**

9. In developing the Strategy considerable efforts have been made to consult with a wide variety of stakeholders in order to understand the potential impacts of the changes.
10. Whilst there is support for the move away from social housing being a home for life in order to make better use of housing stock for vulnerable groups, there are also clear concerns about the needs of vulnerable groups such as older and disabled people in relation to moving and as a result there is considerable support for the mitigating / special circumstances that are being built into the Strategy.
11. There is also concern from some respondents that the need for stability that some children and young people have, exceeds a five year fixed tenancy and protection from needing to change school. This issue was particularly evident amongst families that had experienced homelessness and domestic abuse.
12. The majority of respondents stressed the need for all vulnerable groups to have a real choice of other housing options and appropriate help and support to move on in their lives. A number of respondents were very concerned about the lack of affordable housing and the high level of rents in the private sector. These concerns will need to be effectively addressed in the Council's Housing Green Paper in order for the Tenancy Strategy to have the intended positive effect.
13. There is also a need to be very clear about definitions relating to special circumstances.
14. The Housing Green Paper will need to address the issues of ensuring an appropriate supply of housing of different sizes, affordable housing and appropriate private rental accommodation.

**Public Health:**

15. A key principle of any and all public health preventative interventions is the concept of “never too early, never too late”. The proposed Tenancy Training and support programme, and also more frequent contact with council tenants, where potentially “making every contact count” is an opportunity to engage, especially with people who are vulnerable or likely to benefit significantly in terms of their personal health and wellbeing. For example, to give brief advice and signpost people to preventative programmes such as smoking cessation, health checks and weight management. The potential health impacts will be demonstrated in the Council’s progress towards tackling health inequalities.

**Community Safety:**

16. The Tenancy Strategy sets out that poor tenancy conduct will be addressed with increased sanctions. This is particularly pertinent to supporting the Council’s duty to do all that it reasonably can to reduce crime and disorder in its area. Where criminal or anti-social behaviour is associated with a tenancy, increased sanctions will enable the Council to take more direct action to address the issues. The minimum level of contact proposed in the strategy is not less than 4 visits in the first year, followed by a minimum of 2 visits per year thereafter. This contact will allow the Council to develop working relationships with tenants where problems or concerns can be addressed at an early stage, rather than when things have escalated. This has a beneficial impact on neighbours and the wider community who will see the Council being more proactive and timely in managing problematic tenancies.

**Sustainability:**

17. There are no direct implications arising from this report.

**Procurement:**

18. There are no direct implications arising from this report.

**Overview and Scrutiny:**

19. Detailed feedback from a formal 12 week consultation was initially considered by a Member Task Group on 4 February 2013. The Task Group’s comments were reported to the Social Care, Health and Housing Overview and Scrutiny Committee on 4 March 2013. Paragraphs 55-63 of this report identify specific matters which the Committee was asked to consider, relating to a proposed age after which tenancy reviews will no longer take place and also whether under-occupation of two bedroom properties should be allowable.
20. The Committee received a verbal report from Councillor Charles Gomm, as a member of the Task Group, which informed the Committee’s discussion on these two points in particular. With regard to under-occupation, the Committee recognised that welfare reform will precipitate significant change in the social housing sector and also that there is a limited supply of both one bedroom and two bedroom accommodation, that will constrain the opportunities for people to downsize. However, there was also recognition that one bedroom accommodation is less than ideal, and in particular may not suit older and vulnerable people, who may have a carer who stays with them on a regular basis.

21. On balance, the Committee recommend to the Executive that the Tenancy Strategy does not allow under-occupation of two bedroom accommodation; but that the position is reviewed in approximately 3 years time, to consider the impact of welfare reform. The material consideration is that during the next two years, people will choose to downsize from three bedroom accommodation and there will need to be a supply of two bedroom accommodation for people to move to. On balance, therefore, it is unreasonable to allow under-occupation of two bedroom accommodation, whilst people are seeking to downsize and the demand for 2 bed properties is likely to be high.
22. The Committee considered whether older people should be subject to tenancy review and at what age reviews should cease to take place. It was recognised that contact should be maintained with older people and that the increased emphasis on regular visits to tenants' homes is a potential benefit to older people. The Committee considered the specific question of an age after which reviews should no longer take place and recommend to the Executive that the state retirement age, whatever that shall be in future, should be the prescribed age at which tenancy reviews should stop and the presumption thereafter is that an older person shall enjoy their home for the remainder of their life, if they so choose, provided that under-occupation is not by 2 or more bedrooms.
23. From a more general perspective, the Committee discussed the need for discretion to be established within detailed operational procedures, to consider each and every case on their individual merits, taking account of relevant circumstances to achieve the appropriate outcome, in each case. The Committee is concerned that the Tenancy Strategy, when implemented, could be applied in a way that is too stringent and potentially insensitive to considerations that are unforeseeable at this time; or fall outside of the Policy boundaries. The Committee recommend that appropriate discretion is established within the Review procedures and that the Appeals Process, when developed, is used and embraced as an opportunity to test the intent and outcomes of the Policy so that, if necessary, the policy can be refined.

## **RECOMMENDATIONS:**

### **The Executive is asked to:**

1. **consider and approve the Tenancy Strategy, taking into consideration the recommendations of the Member Task Force; and the recommendations of the Social Care, Health and Housing Overview and Scrutiny Committee; and**
2. **delegate authority to the Director of Social Care, Health and Housing, in consultation with the Executive Member for Social Care, Health and Housing, to develop, maintain and review detailed policy and procedure for the implementation of fixed term tenancies.**

*Reason for Recommendation(s): So that the Council is able to make best use of the social housing stock, to tackle problems like under-occupation and to be effective in meeting essential housing needs. The Tenancy Strategy has been developed using the freedom of the Localism Act, as a means to promote social aspiration and mobility, to act as a springboard into work and financial stability.*

## **Executive Summary**

24. The report proposes that the Council adopts a Tenancy Strategy, in order to fulfil the requirements of the Localism Act 2011. The Tenancy Strategy has been developed following a Members' seminar held in August 2012 and through work undertaken by a Members' Task & Finish Group, working on associated Housing issues, to make best use of the freedoms and opportunities created by the Localism Act, and to respond to the National Housing Strategy.
25. The Tenancy Strategy is part of Central Bedfordshire Council's developing vision for its housing offer. The thrust of the Strategy is to promote social aspiration and mobility, enabling people to move on from social housing, when they are no longer in housing need and are able to afford accommodation that is available in the private sector. It is important, during the next phase of development, that initiatives and options are developed so that people do have choices and options available to them, as an alternative to social housing.
26. The draft Tenancy Strategy has been subject to a significant amount of consultation over a 12 week period. The response to this consultation was broadly positive. The Member Task Force considered detailed consultation feedback on 4 February (see Appendix B). The Overview and Scrutiny Committee considered the draft Tenancy Strategy and the Member Task Force recommendations on 4 March. Their recommendations to Executive are set out in paragraphs 19 – 23. All Member recommendations in response to the consultation feedback are reflected in the Tenancy Strategy, at Appendix A.

## **Background**

27. The Localism Act 2011 requires all local authorities to publish a Tenancy Strategy, to which local social housing providers must have regard. The purpose of the Tenancy Strategy is to help shape the policies of social landlords in the area, especially on the extent to which they make use of fixed term tenancies. It should be noted that the Tenancy Strategy will not apply to existing tenancies, established prior to 1 April 2013.
28. Registered Providers operating in Central Bedfordshire are required to have "due regard" to the Council's Tenancy Strategy and will be required to publish Tenancy Policies. Ideally, these Policies should reflect the content and intent of the Council's Tenancy Strategy.
29. The legal purpose of the Tenancy Strategy is to shape landlords' policies on tenancies. However, the terms on which tenancies are granted are a means to an end; and it is important to ensure that the position the Council takes on tenancies, is based on the bigger picture, on housing and more widely.
30. The Tenancy Strategy also sets out the type of tenancies the Council will let from April 2013. The intention is that the Council will offer Introductory Tenancies from 1 April 2013, for a period of one year, and then offer fixed term tenancies for a period of five years, at the end of the introductory (or probationary) tenancy. In effect, the initial tenancy period is 1+5 years.

31. In Central Bedfordshire the development of the Tenancy Strategy has been based on the principles that were initially discussed at a Member seminar held in August 2012. There was broad consensus that the Council should make use of Fixed Term social housing tenancies as part of a new Housing Offer for Central Bedfordshire. This broad agenda of local housing reform is being considered by a Member Task Group, formed shortly after the Member seminar held in August 2012.

### **Key Principles of the Tenancy Strategy**

32. The Council is developing its own housing reform paper. This local Housing Green Paper, which has been considered by the Member Task Force Group, seeks to drive reform in a number of areas including housing need assessment; housing allocations; responding to homelessness; best use of stock; developing on-line housing need assessment and registration; developing the local housing offer to encourage and support people to move up the housing ladder; promoting mobility for working households and creating choice in the housing market for older households. The introduction of fixed term tenancies via the Tenancy Strategy is a vital component of this reform.
33. The Tenancy Strategy is based on the principle that a housing register applicant will be provided with a social housing tenancy for a period of time. The household may retain that social housing unit whilst they remain in social need. If the need for the property no longer exists, when the review is conducted, the household will be asked to move on. This will enable provider landlords to help more households in housing need over a period of time. But also, by improving the range and value of other housing options, including low cost home ownership, the Council will enable households that have fallen out of social housing need to secure alternative permanent accommodation in the private rented sector and owner occupied market.
34. The Tenancy Strategy identifies Right To Buy and Pay to Stay as positive options for better-off tenants to pursue at the end of their social tenancy. Central Government are due to publish further information on Pay to Stay following a consultation which ended on 12 September 2012.
35. The Tenancy Strategy states that the Council will introduce fixed term tenancies in its own housing stock, and encourages Registered Providers to do the same. It is proposed that tenancies in Council stock will be fixed for a period of 5 years, with the presumption of renewal unless a household's circumstances have changed such that it is inappropriate for the household to continue to live in that particular property. The Strategy does not exclude the option of a move to alternative suitable social housing, where the property has become inappropriate but the household nonetheless remains in social need.
36. It is a requirement that the Tenancy Strategy clearly sets out the circumstances in which households will NOT have their tenancies renewed. The Tenancy Strategy states that tenancies should not be renewed if:
  - (a) the property is now under-occupied, as some of the original household members have moved on;

- (b) there has been a significant improvement in the household's financial circumstances and they no longer need a social housing property;
- (c) the current property has been adapted to help a resident but it is no longer suitable for the tenant's needs;
- (d) the tenancy has not been conducted satisfactorily;
- (e) there has been misuse of the property for criminal purposes;
- (f) the tenant has allowed the property to become severely overcrowded; and
- (g) the tenant refuses to participate in the renewal process, and has been offered all the support to do so.

### **Consulting on the draft Tenancy Strategy**

- 37. The Council is legally required to consult on the draft Tenancy Strategy and has, for the last 12 weeks, carried out a formal consultation exercise.
- 38. In order to seek the views of as wide an audience as possible, the Council placed the draft Tenancy Strategy, a summary document and a Frequently Asked Questions document onto the *Have Your Say* page of the Council's website. The survey has been actively promoted with partner agencies and to all those housing register applicants who made contact with the Housing Register team during January 2013. This resulted in 37 online surveys being completed.
- 39. A series of face-to-face interviews were carried out with service users during the consultation period. This included talking to residents at Bedford Court; and Women's Refuges in Biggleswade and Dunstable, most of whom were bidding for properties and so have a particular interest in the Tenancy Strategy. Housing staff also attended Job Club sessions to talk to service users there. This resulted in 14 face-to-face interviews.
- 40. A stakeholder workshop was held in January, attended by a range of agencies, Registered Providers and Council Members. Agencies who did not attend this have had the opportunity to debate issues via attendance at the Child Poverty Forum and Equalities Forum, where presentations were made by Housing staff and debate facilitated.
- 41. Housing Staff have been involved in the development of the Tenancy Strategy via facilitated staff workshops – in total, 48 staff attended these.



## **Summary of Public Consultation Feedback**

42. Full results of the on-line Tenancy Strategy consultation survey; as well as summaries of views gathered during the face-to-face interviews, are available as background papers to this report.
43. Overall, the people consulted expressed broad support for the draft Tenancy Strategy, and could see the merit in freeing up under-occupied stock for the benefit of people on the housing waiting list. There was strong support for the tenancy renewal process to be used as a tool to tackle anti-social behaviour.
44. Many of those who responded during the consultation, both for and against the intent of the Strategy, reflected on its practical implications, and expressed concern that it should be implemented in a way that was fair to individual households, so that it didn't for example up-root vulnerable people from support networks, or push working people on low incomes into the private rented sector.
45. Residents of the Domestic Violence refuges taking part in the consultation were concerned about the impact on their children of a 5 year tenancy, following the trauma of crisis homelessness and resettling in a new area.

## **Views of Partner Agencies**

46. The feedback from this work was positive and broadly supportive of the proposals. Participants highlighted concerns that the review at 5 years should be part of ongoing contact with the tenant over the duration of the fixed term tenancy, and should not "come out of the blue". They also debated whether tenants over pensionable age should be awarded lifetime tenancies, forming the view that on balance they should be.
47. There was overall support for the concept of effective pre-tenancy briefing or training. The main area of concern raised by participants was that a robust test was developed to properly assess the financial capacity of tenants at review time. They highlighted that this should be related to the housing market at the time of review, and that staff conducting the assessment were properly trained and skilled in this area.

## **Views of Housing Service Staff**

48. Housing Service staff attended dedicated workshops held during January. Almost all staff felt that 5 year fixed term tenancies were a good idea. There was consensus on the proposed reasons not to renew a tenancy at the end of the fixed term. Concerns were raised over the method of assessing financial capacity. This is a recurring theme arising from consultation.
49. On this point, it should be noted that operational procedures will be developed to provide guidance to staff on this aspect. There was a debate over what kind of behaviour would be considered as part of the "poor tenancy conduct", largely around how broad this definition would be. Again, operational procedures will need to be developed to cover this area.

## **Consideration of Special Circumstances**

50. A number of Tenancy Strategy consultation responses expressed concern about particular situations in which it would be disproportionate or impractical to ask a household to move home; examples were put forward of situations where a move might compromise the wellbeing of a disabled person, or have implications for the welfare of a child.
51. As part of the consultation, council officers and partner agencies debated whether or not the Tenancy Strategy should identify specific circumstances which merited special treatment.
52. Having considered this issue carefully, the Member Task Group view is that discretion is an important facet of the operational implementation of the Tenancy Strategy, and will need to be defined carefully within procedural guidance. The considered view is that to specify special circumstances as being unique or exceptional would militate against the proper exercise of discretion to consider individual cases on their merits. Instead, it is proposed that housing staff should have discretion to consider any special circumstances as part of the Tenancy Review process, as defined within operational guidance and also Review and Appeals procedures.
53. The report seeks delegated authority, to the Director for Social Care, Health and Housing, in consultation with the Executive Member for Social Care, Health and Housing; to develop and implement these and other procedural guidelines, in keeping with the principles of the Tenancy Strategy, and with due consideration of the attendant equalities implications and requirement to be operationally effective and cost efficient.
54. Further, delegated authority is sought to keep these procedural guidelines under review. This is particularly important in respect of guidelines to underpin the financial assessment process, as change in the housing market is likely to alter the threshold at which private accommodation becomes affordable, over the course of the years ahead.

## **Views of the Task Force, established to Review the Strategic Changes in Housing**

55. The Member Task Force Review of Strategic Changes in Housing met on 4 February 2013 to receive a summary of consultation feedback on the Tenancy Strategy, and to debate possible responses to this feedback. A summary of the feedback, and the Task Force response to it, can be found at Appendix B.
56. Most of the recommendations of the Member Task Force are relatively straightforward, and are reflected in the Tenancy Strategy (Appendix A). The summary of feedback and the updated draft Tenancy Strategy were both presented to Overview and Scrutiny for their comment on 4 March.
57. There are two particular areas of debate which are potentially contentious, for which reason the Member Task Force asked Overview and Scrutiny to give them specific consideration, in order to make a recommendation to Executive.

58. The first area of debate concerns feedback from the consultation process that it would be disproportionate to ask tenants to downsize from two bedroom to one bedroom accommodation.
59. The Member Task Force reached the view that one bedroom accommodation was not ideal accommodation even for single people, particularly those who were older and/or vulnerable; and that where such a tenant was under-occupying a two bedroom property – which they could afford to rent – they should not be asked to move to a smaller property as part of the Tenancy Renewal process.
60. This view was felt to merit specific consideration by the Overview and Scrutiny Committee as it constitutes a significant departure from the Tenancy Strategy as it was originally conceived by Members.
61. The second area of debate concerns whether an upper age limit should apply beyond which there would be an assumption that tenancies would be renewed, in all circumstances. This was in response to consultation feedback that compelled moves would be particularly hard on older people; and on an assumption that most fixed term tenants would already have moved on from family sized accommodation by the time they reached retirement age.
62. Thought was given to whether the state retirement age, whatever that is stipulated to be in the years ahead, should be the upper age limit. Overview and Scrutiny were directed to consider whether or not this upper limit should still apply in the same way where the tenant has not previously moved on by retirement age, and is under-occupying larger accommodation.
63. Overview and Scrutiny Committee discussed the points set out above and their views are summarised at paragraphs 19 to 23. The Tenancy Strategy contains sections headed ‘Older People’ and ‘Transferring to smaller property’ on page 8, which reflect the recommendations made by Overview and Scrutiny.

## **Conclusion and Next Steps**

64. The intent of the Tenancy Strategy is to tackle problems like under-occupation and to make best use of the social housing stock in Central Bedfordshire, so that the Council and partners are able to optimise the value and benefit of the social housing asset in meeting essential housing needs.
65. The principle of renewable tenancies, on the basis that tenancies are “used and renewed” where people remain in housing need at the end of a five year period, is clearly established within the Tenancy Strategy. This principle will be established within Tenancy Review procedures and operational policies, during implementation.
66. The thrust of the Strategy is to promote social aspiration and mobility, enabling people to move on from social housing, when they are no longer in need and are able to afford accommodation that is available in the private sector. It is important, during the next phase of development, that initiatives and options are developed so that people do have choices and options available to them, as an alternative to social housing.

67. In looking ahead, towards implementation of the Strategy and considering how best to encourage employment and improve people's life chances, there is likely to be a fundamental change in the role of social housing providers. Where currently their role is defined mainly as the provider of accommodation; their future role is likely to encompass access to employment; skills training and adult education opportunities.

**Appendices:**

Appendix A – Tenancy Strategy 2013 - 2018

Appendix B – Summary of consultation feedback on the draft Central Bedfordshire Council Tenancy Strategy, and response of the Member Task Force

**Background Papers:** (open to public inspection)

Tenancy Strategy Equality Impact Assessment

Tenancy Strategy online consultation results

Tenancy Strategy summary of face to face public consultation