

**North Tyneside Council  
Report to Cabinet  
Date: 11<sup>th</sup> February 2013**

**ITEM 6 (I)**  
**Title: North Tyneside  
Tenancy Policy and  
Lettings Policy Review**

**Portfolio(s): Housing**

**Cabinet Member(s): Councillor Paul  
Mason**

**Report from Directorate: Community Services**

**Report Author: Ian Conway, Head of North Tyneside Homes Tel: (0191) 643 7501**

**Wards affected: All Wards**

**PART 1**

**1.1 Purpose:**

The purpose of this report is to seek approval for a North Tyneside Tenancy Policy and agree proposed changes to North Tyneside Council's Lettings Policy to take account of this and legislative changes including Welfare Reform.

**1.2 Recommendation(s):**

It is recommended that Cabinet:

- (1) Agree the North Tyneside Tenancy Policy at Appendix 1.
- (2) Agree North Tyneside Council's Lettings Policy as set out in Appendix 2 of this report and note the financial implications as set out in paragraph 2.1.
- (3) Consider the comments and recommendations of the Economic and Prosperity Housing Sub-Committee as set out at paragraph 1.5.4 and in Appendix 3 of this report and endorse the responses provided.

**1.3 Forward Plan:**

This report appears on the Forward Plan for the period 21 November 2012 to 31 March 2013.

**1.4 Council Plan and Policy Framework**

The publication of a Tenancy Policy is a new statutory requirement for local authorities as set out in the Localism Act 2011. The Tenancy Policy will give effect to

the Tenancy Strategy agreed by Cabinet on 12<sup>th</sup> November 2012 and assist in the provision of affordable rented housing.

The Lettings Policy ensures that housing needs of people requiring social rented accommodation in the borough are identified and met.

The Lettings Policy promotes sustainable communities and helps people access secure, suitable, affordable homes within North Tyneside

## **1.5 Background Information:**

The Localism Act 2011 placed a requirement on local authorities to produce a Tenancy Strategy and the Regulatory Framework for Social Housing in England (from April 2012) require social housing providers to publish clear and accessible policies which outline their approach to tenancy management. The Tenancy Strategy agreed by Cabinet on 12<sup>th</sup> November 2012 sets out the Authority's overall strategy and objectives including the use of new flexible tenancies in social housing. The Tenancy Policy sets out, in detail, how tenancies within the Authority's housing stock, will be managed.

The Tenancy Policy reflects the aims of the Tenancy Strategy and sets out the types of tenancies the Authority will grant and the interventions and procedures it has in place to sustain tenancies, prevent unnecessary evictions and tackle tenancy fraud.

The Tenancy Policy has been developed within the context of the North Tyneside Tenancy Strategy which aims to:

- Make the best use of housing stock to meet local housing need.
- Maintain and create successful, sustainable communities.
- Prevent homelessness.

The purpose of the Tenancy Policy is to provide clarity on the tenancy types granted and the rights and responsibilities set out within the tenancy agreement. It sets out to balance the individual household needs with the requirement to make efficient use of the housing stock.

The two key changes in tenancy rights introduced by the Localism Act 2011 are addressed in the Tenancy Policy. They are:

- Introduction of Flexible (fixed term) Tenancies and
- Changes to the Right to Succession.

### **1.5.1 Flexible Tenancies**

Flexible Tenancies run for a fixed term; legally a minimum of 2 years but recommended to be 5 years. At the end of the fixed term the landlord has an option to either renew or terminate the tenancy. The Tenancy Policy states that it is **not** the Authority's intention to offer these flexible fixed-term tenancies. Instead the Authority proposes to maintain current policy of granting non fixed-term tenancies ('tenancies for life') and thereby minimise uncertainty for tenants and help promote sustainable

communities. This proposal reflects feedback received during the consultation process with tenants and stakeholders. However, it is recommended that the Tenancy Policy should be reviewed in the future to take account any emerging evidence on the impact of fixed term tenancies.

### **1.5.2 Right to Succession**

Currently the spouse, partner or civil partner of a tenant has the right to succeed to a tenancy on their death. Family member's siblings only have the right to succeed to the tenancy if they have been living in the home continuously for 12 months prior to the tenant's death.

The right to succeed to any secure tenancy granted after 1<sup>st</sup> April 2012 is now limited to spouse, civil partner or cohabitee of the deceased. There is no longer a statutory succession to family members; they can only succeed to a tenancy if the landlord has an express term within the tenancy agreement to provide a non statutory right to take over the tenancy.

It is proposed that North Tyneside Homes' tenancy agreements do not contain any express term to grant any additional succession rights to family members. As a result, they will not have any right to succeed to the tenancy on the death of the tenant. This revision of the tenancy agreement will not affect the succession rights of existing tenants and their families.

Where there is no qualifying successor, the Authority still has the ability to grant a new tenancy to an occupier who has lived in the property for more than 12 months, in circumstances where;

- They are considered to be vulnerable and would therefore be eligible for assistance as a homeless person; or
- The tenant died leaving dependant children and the occupier is the children's carer; or
- They are a family member who is considered to have exceptional circumstances.

The decision to grant a new tenancy in any of the above three circumstances will be made by the Head of North Tyneside Homes in consultation with the Cabinet Member for Housing as a direct let under the terms of the Council's Lettings Policy.

Where an occupier has lived in a property for more than 12 months prior to the death of the tenant, but did not qualify to succeed to the tenancy, a temporary 'licence to occupy' can be granted. During this time officers would support the family to secure an alternative suitable home that meets their housing needs through a direct let. Where an occupier did not accept a reasonable offer, legal action would be taken to recover possession of the property.

### **1.5.3 Lettings Policy**

Local authorities are required to carry out a review of their lettings policies at reasonable intervals. It is 2 years since the last review carried out by North Tyneside

Homes. Government recently issued fresh guidance that gave greater flexibility to councils to set their own criteria for managing the allocation process. Now is also an opportune time to give some consideration to any changes that may be necessary to the lettings criteria, to mitigate the impact of the Welfare Reform Act 2012 on certain households.

The Localism Act 2011 gave housing authorities greater freedom and flexibility about which households were and were not eligible for social housing and who had access to join the Housing Register, where a council maintained one.

The Authority must continue to provide 'reasonable preference', as defined by Government, to certain applicants for housing. However, the Authority now has a degree of flexibility in respect of other applicants to:

- set criteria around who may and may not be given social and affordable homes in the borough, and thus accepted onto the Housing Register.
- devise and apply different rules regarding the allocation of council housing to existing tenants i.e., transfers.

### **1.5.3. (a) Review Process**

A review of the Council's Lettings Policy has been carried out which has taken account of the following:

- The Localism Act 2011
- The Welfare Reform Act 2012
- Allocation of Accommodation: Guidance for local housing authorities in England, June 2012
- Issues identified during the operation of the current scheme
- Feedback from consultation with Members, customers, partners and key stakeholders
- A scrutiny review by Economic Prosperity and Housing Sub-Committee.

The issues identified have been incorporated into the revised Policy attached as Appendix 2, which has been revised in consultation with the Authority's Legal Team to ensure compliance with statutory requirements.

### **1.5.3. (b) Proposed amendments to the Lettings Policy**

The main issues arising from the review that affect the way the Authority lets homes are summarised below:

#### **1. Members of Armed Forces**

Housing authorities must frame their allocation scheme to give 'additional preference' to former members of the regular Armed Forces. The Authority achieves this by awarding Band 2 within the lettings policy, to qualifying applicants. This is in line with the commitments the Cabinet signed up to, within the Armed Forces Covenant.

The latest government guidance (Allocation of Accommodation: Guidance for local housing authorities in England) recommends that:

- Service Personnel should not be disqualified on residential grounds, within 5 years from the date of discharge.
- Bereaved spouses and civil partners of members of the Armed Forces leaving family accommodation following the death of their spouse or partner should be awarded the same preference as their spouse or partner.
- Further, additional preference should be given where serving members of the Armed Forces need to move because of serious injury, medical condition or disability sustained as a result of their service.

It is proposed that the Authority implement these criteria and offer the extra priority to members of the Armed Forces, spouses and civil partners.

## **2. Restricting access to the Housing Register**

### 1) Financial Resources

At the present time it is possible for owner occupiers and other applicants who have significant financial resources at their disposal to access council housing. It is proposed to restrict access to the Housing Register as for those applicants whose financial resources can meet their housing need, for example some owner-occupiers.

Restricting access to the Housing Register from applicants who have sufficient financial means to meet their housing needs will help to ensure that the Authority is allocating its limited housing stock to those who are unable to satisfy their own housing needs.

When a housing application is received from an owner occupier, or it is believed the applicant has financial resources to meet their housing need, a financial assessment will be carried out prior to the application being accepted onto the Register. If the assessment indicates that the applicant has the resources to meet their housing needs, they will be considered ineligible. However, if for example an owner occupier is considered especially vulnerable, in financial hardship, does not have equity in their home, or is unable to sell their home within reasonable timescales, then they may be accepted onto the Housing Register.

### 2) Rent arrears or other housing debts

In order to assist the Authority in managing and recovering rent arrears and/or other housing debt (e.g.re-chargable repairs) from current and former tenants, where an applicant has such a debt in excess of £1,000, with any landlord, they are excluded from the Housing Register.

It is proposed that this threshold is reduced from £1,000 to £500 in respect of all new applicants.

### **3. Tackling Under Occupation**

#### Rent Arrears

The new Allocation of Accommodation guidance suggests that local authorities consider giving tenants with minor arrears arising from the impact of Welfare Reform, a concession to enable them to move to smaller accommodation.

Welfare Reform changes introduce a restriction on the amount of housing benefit payable to working age tenants who are under-occupying their homes. There are approximately 2,500 Council tenants in North Tyneside who will be affected by these changes.

The restriction in housing benefit could result in some tenants falling into rent arrears. Under the current Lettings Policy accrual of rent arrears would prevent a tenant from transferring to another home. Clearly this would be detrimental, particularly if the person's financial difficulties could be resolved or eased by moving to a smaller home.

It is therefore proposed that a concession is given to tenants who are under occupying and have rent arrears of less than £150, to enable them to bid for homes without detriment, if they meet the following criteria:

- The rent account was up to date prior to the under occupancy charges commencing in April 2013.
- An assessment of their finances shows they are unable to afford the shortfall in rent payment due to reduced housing benefit.
- A repayment agreement for 12 weeks or more has been made and complied with.
- There have been no other breaches of tenancy and the property is in a suitable state for re-letting.

Any debt will continue to remain the responsibility of the tenant and, should they fail to make payments against their debts, legal action will be undertaken for breach of tenancy if the debt is related to their current home.

### **4. Shortlisting Criteria**

All applicants in Band 1 and Band 2 have an urgent or a high need for housing. Therefore, it is considered appropriate that the existing criteria for deciding who on the shortlist is allocated a home remains unchanged. Consideration is first given to the band they qualify for, followed by whether they have a local connection and finally the date the applicant was awarded their urgent or high housing need status.

In the lower bands the applicants can accumulate significant advantage the longer they wait, as the date of application is used as the tie breaker. This can be perceived as unfair in certain circumstances, particularly where the applicant is living in reasonable housing circumstances. Within Band 3 there are a number of transfer applicants who are under-occupying their homes. These applicants may be faced with additional pressures through changes in Welfare Reform.

To assist these applicants with transfers to more suitable accommodation quickly, and to alleviate any financial pressures, it is proposed to change the shortlisting criteria for Band 3, by giving consideration to North Tyneside Council tenants wishing to transfer due to under-occupation before using the date the priority was awarded. i.e.

Band - Local Connection - Under Occupation - Date of Application

This change will assist those whose benefit is reduced because of under occupation and assist with the better management of the housing stock

No changes are proposed to Band 4 where the date of application would continue to be used as the tie breaker (there are no transfer applicants who are under-occupying their home in this band).

## **5. 'Staying Access' - Property Size Eligibility**

Where a tenant or housing applicant does not have full access to their children, it is referred to as 'staying access' for the purpose of assessing priority and appropriate accommodation. Under the Authority's current Letting Policy, applicants with 'staying access' to more than two children are eligible for a 2 or 3 bedroom home.

Welfare Reform changes mean housing benefit will not take into consideration bedrooms that are not occupied on a full time basis. Reducing the eligibility to applicants with staying access, to properties with fewer bedrooms will prevent prospective tenants who claim benefits from finding themselves in homes where housing benefit will be restricted due to under-occupancy, thereby causing financial hardship.

The Authority needs to ensure that it is allocating the limited housing stock fairly, based on level of need. Restricting the number of bedrooms to applications with staying access will assist the better management of the housing stock. Therefore, it is proposed the revised policy restricts eligibility for applicants who have staying access to two or more children, to a maximum of two bedroom accommodation.

#### **1.5.4 Economic Prosperity and Housing Sub Committee**

During consideration of the Tenancy Policy and Lettings Policy review, the Economic and Prosperity Housing Sub Committee on 10<sup>th</sup> December 2012 made the following recommendations to Cabinet:

1. Cabinet to ensure that a full review of the under occupation incentive is carried out and clear guidelines for tenants are in place to ensure they are informed of their right to a cash payment for downsizing.
2. Cabinet to ensure that promotion of mutual exchange and the Government's National Mutual Exchange Scheme (Homeswap Direct), is carried out to support those tenants affected by Welfare Reform under occupation rules.
3. Cabinet ensure that we keep the new Lettings Policy under review with the implementation of Welfare Reform so the policy can be amended if it is felt necessary.

Whilst recognising that these issues fall outside of specific changes to the Lettings Policy itself, members felt they were important to highlight for Cabinet's attention and consideration.

A response to each of the recommendations of the Economic and Prosperity Housing Sub Committee is given in Appendix 3.

#### **1.6 Decision options:**

The following decision options are available for consideration by Cabinet:

- (1) Agree the recommendations as set out within section 1.2 of this report.
- (2) Agree the recommendations as set out within section 1.2 of this report subject to amendments as specified by Cabinet.
- (3) Not approve the recommendations and refer the content of this report back to officers for further consideration.

#### **1.7 Reasons for recommended option:**

It is recommended that Cabinet agree Option 1 as set out in this report as it reflects the feedback from consultation and secures compliance with the Authority's statutory duties.

#### **1.8 Appendices:**

Appendix 1: Draft North Tyneside Tenancy Policy

Appendix 2: Revised North Tyneside Council's Lettings Policy: December 2012

Appendix 3: Recommendations from the Economic and Prosperity Housing Sub-Committee



## **1.9 Contact officers:**

Paul Worth, Housing Operations Manager, North Tyneside Homes, tel. (0191) 643 7554

Katrina Anderson, Homefinder Manager, North Tyneside Homes, tel. (0191) 643 7569

Linda Lacy, Principal Strategy and Development Officer tel (0191) 643 6213

Alison Campbell, Finance Business Manager, tel. (0191) 643 7038

## **1.10 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- 1) Localism Act 2011
- 2) Welfare Reform Act 2012
- 3) Allocation of Accommodation: Guidance for local housing authorities in England, June 2012
- 4) Housing Acts 1985 and 1996;
- 5) North Tyneside Council's Tenancy Strategy 2013 -18;
- 6) Reports and Minutes of the Economic and Prosperity Housing Sub-Committee, 10 December 2012.

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

The proposed changes to the Lettings Policy will require some amendments to the Abrisas Housing Register module and a budget sum of £1,500 is required to cover these necessary costs

Budget provision from within the Housing Revenue Account has been made for the proposed recommendations and implementation of sub regional choice based lettings from within current budgets.

### **2.2 Legal**

Local housing authorities are required under Section 15 of the Localism Act 2011 to prepare and publish a Tenancy Strategy setting out the matters to which providers of social housing in their district are to have regard to in formulating their tenancy policies. The Strategy must summarise the policies or explain where they are to be found.

Housing authorities are also subject to a range of requirements associated with the letting of their dwellings, under the Housing Act 1996 and associated legislation.

Full consideration has been given to the range of relevant legal requirements and provisions to which the Authority is subject in the formulation of the Tenancy Policy and revising the Lettings Policy, including the Localism Act 2011, relevant Housing Acts, and the primary government guidance, the Allocation of Accommodation: Guidance for local housing authorities in England 2012.

## **2.3 Consultation/community engagement**

**2.3.1** Ward Councillors and MPs have been consulted for their views.

**2.3.2** On 10 December 2012, Economic Prosperity & Housing Sub-Committee met in order to receive a briefing on the Tenancy Policy and the Lettings Policy review. At its meeting the sub-committee was presented with the key findings from the policy review, as set out in 1.5.4 of this report. The sub-committee endorsed these proposed changes to the lettings policy.

**2.3.3** In looking at the review of the lettings policy, Members also discussed several issues. These additional comments and recommendations of the sub-committee are set out at Appendix 3.

**2.3.4** Consultation responses have been sought from over 40 partners, of both internal Local Authority Services and external organisations, namely:-

Youth Offending Team, Community Occupational Therapists, Leaving Care Team, Northumbria Probation, Voluntary Organisations Development Agency (VODA), Norcare, Harbour (woman's aid), Project Answer, Community Assessment Teams (CAS), Children's Disability Team, North Tyneside Health Visitors, Children's Services, DePaul Uk, Community Engagement Team, Children's Centres, Connexions, Re-ablement Discharge Team, Family Support Workers, Soldiers, Sailors, Air Force Association (SSAFA), Community Learning Disability Team, Age UK, Hospital Discharge Team, Senior Management CYPL, Lighthouse Project, Cyrenians, Children Protection Services, Alan Campbell (MP) Office, East Howdon Community Group, Citizens Advice Bureau, Early Intervention Team, Islamic Community Group, Adult Social Care, Surestart, Shelter, Survivors of Abuse in North Tyneside, Mary Glindon (MP) Office, Places for People, Community Mental Health Team(s).

**2.3.5** Consultation sessions have also been held with Registered Partners (Housing Associations) of the Local Authority, who were asked to comment on the Policy issues arising and raise any further issues for consideration.

**2.3.6** A range of consultations with tenants, residents and Homefinder applicants have been carried out including, service development groups and 4 mini gold ticket events which included over 100 tenants.

**2.3.7** The feedback from the consultation has included the following:

- In relation to succession: (a) it was felt it was important to give up to 12 months to allow for grieving before requiring the remaining occupants of a home to move.
- (b) It was felt that financial support should be considered to help with the cost of moving e.g. removals.
- ( c )Where exceptional circumstances exist consideration should be given to granting the tenancy where no statutory succession exists.

- There was strong support for the strengthened provision for members / former member of the Armed Forces and their families.
- There was very little support for the introduction of flexible tenancies however it was accepted that this option be kept under review in the light of changing circumstances and emerging evidence.
- There was strong support for excluding owner-occupiers who are not in financial difficulty/hardship/welfare issue from the Housing Register. However it was considered important that each case should be considered on an individual basis
- There was support for strengthening the provisions in relation to tenants / former tenants who have outstanding debt.
- There was support for restricting access to applicants with staying access to only one bedroom more than their permanent household requirements.
- There was support for making some concession for applicants whose rent arrears was caused by Housing Benefit reforms to transfer to smaller property.
- More priority should be given to applicants who need to downsize.

## **2.4 Human rights**

North Tyneside Homes' policies are compliant with Article 8 of the European Convention on Human Rights - the right to respect for private and family life.

## **2.5 Equalities and diversity**

An equality impact assessment has been undertaken in relation to the proposed changes.

## **2.6 Risk management**

There are no significant risk management implications arising from this report.

## **2.7 Crime and disorder**

There are no significant crime and disorder implications arising from this report.

## **2.8 Environment and sustainability**

There are no significant environment and sustainability implications arising from this report.

## **PART 3 - SIGN OFF**

- |                           |                                     |
|---------------------------|-------------------------------------|
| • Chief Executive         | <input checked="" type="checkbox"/> |
| • Strategic Director(s)   | <input checked="" type="checkbox"/> |
| • Mayor/Cabinet Member(s) | <input checked="" type="checkbox"/> |
| • Chief Finance Officer   | <input checked="" type="checkbox"/> |

- Monitoring Officer
- Strategic Manager Policy and Partnerships