



CABINET

22 JANUARY 2025

Subject Heading:

Housing Services – Tenancy policy (2024)

Cabinet Member:

Cllr Paul McGeary

ELT Lead:

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Policy context:

This policy sets out the Council's position in relation to its tenancy terms and conditions.

It aligns with other, associated Council policies.

It is required by the Housing Regulator as a stand-alone policy.

Financial summary:

No financial implications.

Is this a Key Decision?

Yes, because it will have a significant effect on two or more Wards.

When should this matter be reviewed?

Annually, to ensure it continues to comply with legislative or regulatory requirements

Reviewing OSC:

To be reviewed by the OSC Board.

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy - X

Resources - Enabling a resident-focused and resilient Council

SUMMARY

This policy outlines our approach to providing a fair and transparent tenancy management service, reflecting our commitment to provide secure, high-quality housing and ensure that our residents have a safe and comfortable home.

The need for a Tenancy Policy is a requirement of social housing reforms set out in the Localism Act 2011 and is a requirement of the Regulatory Framework for Social Housing.

The policy reforms include the introduction of the right to issue tenancies for a fixed length of time and changes to the rights of succession.

This aims to give social housing providers greater flexibility in making best use of their stock and Affordable Rent Tenure Options (affordable rent means up to 80% of the local market rent) to increase rental income and in turn maximise the supply of homes.

This policy sets out how Havering Council ('the landlord') use the range of options available in the Localism Act to assist in meeting its strategic aims, outlining:

- the use of different tenancy types to ensure the best use of valuable social housing stock
- different tenancy types and the circumstances under which they will be offered
- tenancy management
- the process for starting and ending a tenancy
- ensuring tenancies are sustainable
- how we help our vulnerable tenants

RECOMMENDATIONS

The recommendation is to approve this policy.

The reputation of the Council would benefit from clearly stating and communicating its position regarding its tenancy agreement with applicants.

REPORT DETAIL

This new policy explains:

1. The types of tenancies currently available;
2. The legal context of this policy;
3. The requirements for attain a Council tenancy;
4. How to sustain a residency;
5. Support measures for vulnerable people;
6. Enforcement of the Tenancy Agreement;
7. How to end a tenancy

REASONS AND OPTIONS

Reasons for the decision:

- We have a public service obligation to Havering residents who expect and deserve to live in a better, safer borough.
- This policy is a requirement by the Housing Regulator;
- Having a policy in place is recognised as good practice;
- It protects the Council by assuring the public that we have a robust, fair Tenancy Policy in place.

Other options considered:

- **No action**
The 2011 Localism Act requires us to set out & publish our approach to tenancy management.
- **Allow councillors to represent their views in the absence of Council-agreed guidance**
Councillors cannot be left unsupported.

IMPLICATIONS AND RISKS

- **Financial:**
None.

Any expenditure incurred as a result of this Policy being in place, will be funded from existing budgets.

- **Legal:**

Section 150 and 151 of the Localism Act 2011, require Local Housing Authorities to prepare and publish a tenancy strategy. The provisions of section 150 and 151 of the Localism Act are set out below.

The Regulator of Social Housing, Tenancy Standard Consumer Standard 1 April 2024, requires registered providers to publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud. Section 2.3.1 of the Tenancy Standard is set out below.

Additionally, the Council is required to have policies setting out how they will make decisions in relation to the grant of Fixed-Term Tenancies and what factors they will take into account in deciding whether or not to grant the tenant a new tenancy. To this end, Havering Council has in place the following Policies relating to Fixed term policies:

- (1) FIXED-TERM TENANCY POLICY
- (2) FIXED-TERM REVIEW AND RENEWAL PROCEDURE

These above policies also should be applied when dealing with Fixed term tenancies.

The Council should also have a discretionary succession policy which would outline the circumstances when succession would be allow on a discretionary basis.

In line with Section 149 of the Equality Act 2010, the Council is required to have regard to the Public Service Equality Duty when applying the Tenancy Policy.

The Renters Rights Bill 2024 proposes to make various changes relating to Assured Short- hold tenancies. If the Bill is implemented, the Council would need to revise the Tenancy Policy in relation to assured short hold tenancies.

Section 150 of the Localism Act 2011 provides as follows:

150 Tenancy strategies

(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 particular kind,
- (c) where they grant tenancies for a term certain, the lengths of the terms, and

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(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.

(3)A local housing authority must have regard to its tenancy strategy in exercising its housing management functions.

(4)A local housing authority must publish its tenancy strategy before the end of the period of 12 months beginning with the day on which this section comes into force.

(5)A local housing authority must keep its tenancy strategy under review, and may modify or replace it from time to time.

(6)If a local housing authority modifies its tenancy strategy, it must publish the modifications or the strategy as modified (as it considers appropriate).

(7)A local housing authority must—

(a)make a copy of everything published under this section available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and

(b)provide (on payment if required by the authority of a reasonable charge) a copy of anything so published to any member of the public who asks for one.

(8)In this section and section 151 (preparation of tenancy strategy)—

(a)references to a registered provider of social housing for a district are to a registered provider who grants tenancies of dwelling-houses in that district, and

(b)“district”, “dwelling-house” and “local housing authority” have the same meaning as in the Housing Act 1985.

Section 151 of the Localism Act 2011 provides as follows:

151Preparation of tenancy strategy

(1) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must—

(a) send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and

(b) give the private registered provider a reasonable opportunity to comment on those proposals.

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(2) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must also—

(a) consult such other persons as the Secretary of State may by regulations prescribe, and

(b) in the case of an authority that is a London borough council, consult the Mayor of London.

(3) The authority must, in preparing or modifying a tenancy strategy, have regard to—

(a) its current allocation scheme under section 166A of the Housing Act 1996,

(b) its current homelessness strategy under section 1 of the Homelessness Act 2002, and

(c) in the case of an authority that is a London borough council, the London housing strategy.

The Regulator for social housing, tenancy Standard Consumer standard 1 April 2024, Section 2.3.1 provides as follows:

2.3.1 Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud, and set out:

- (a) The type of tenancies they will grant.
- (b) Where they grant tenancies for a fixed term, the length of those terms.
- (c) The circumstances in which they will grant tenancies of a particular type.
- (d) Any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period.
- (e) The circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property.
- (f) The way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and

against a decision not to grant another tenancy on the expiry of the fixed term.

- (g) Their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability.
- (h) The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.
- (i) Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.

2.3.2 Registered providers must grant general needs tenants a periodic secure or assured (excluding periodic assured shorthold) tenancy, or a tenancy for a minimum fixed term of five years, or exceptionally, a tenancy for a minimum fixed term of no less than two years, in addition to any probationary tenancy period.

2.3.3 Before a fixed term tenancy ends, registered providers shall provide notice in writing to the tenant stating either that they propose to grant another tenancy on the expiry of the existing fixed term or that they propose to end the tenancy.

2.3.4 Where registered providers use probationary tenancies, these shall be for a maximum of 12 months, or a maximum of 18 months where reasons for extending the probationary period have been given and where the tenant has the opportunity to request a review.

2.3.5 Registered providers shall grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 comes into force, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord. (This requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

2.3.6 Registered providers shall grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation

- **Human Resources (HR):**

None.

This policy will be delivered using existing HR resources and poses no risk to the Council or to the population.

- **IT:**

None.

This policy will be delivered using existing I.T. resources and will pose no risk to the Council or the population.

- **Equalities, Diversity and Inclusion (EDI):**

None

This policy does not differentiate and applies equally across the entire population, as stated in the accompanying Equality and Health Impact Assessment (EqHIA).

- **Health and Wellbeing:**

None.

This policy will, if anything, help to improve the health and wellbeing of Havering residents by helping to create better by clarifying the Council's requirements.

- **Environmental and Climate Change**

None.

The Tenancy Policy will support the council's carbon reduction ambitions by reducing the reliance on paper and postage where possible and to group visits to properties in the same geographical area to reduce the number of car journeys required. This proactive approach not only minimises carbon emissions but also contributes to the reduction of air pollution.

BACKGROUND PAPERS