

## **DERBY HOMES TENANCY POLICY**

Report of the Director of Housing and Customer Service

### **1. SUMMARY**

This report details the proposed Derby Homes Tenancy Policy, attached at Appendix 1 which reflects Derby City Council's Tenancy Strategy as approved by Council Cabinet on 15 August 2012.

### **2. RECOMMENDATION**

The Board is asked to approve the Tenancy Policy.

### **3. MATTER FOR CONSIDERATION**

- 3.0 The Localism Act 2011 provides the statutory basis for an extensive programme of reforms – reforms which impact dramatically on the way social housing is resourced, allocated and managed. Derby City Council's strategic approach to the utilisation of these reforms is set out in the Tenancy Strategy. The executive summary of Derby City Council Tenancy Strategy is attached at Appendix 2.
- 3.2 The strategy forms the basis for action on Derby City Council owned stock while also giving guidance to other housing providers as to the position of the Council on key issues.
- 3.3 As a registered provider Derby Homes is required by the Localism Act to 'have regard to' the local authority tenancy strategy when drawing up our own tenancy policy.
- 3.4 Derby Homes is a registered housing provider and in respect of its own stock has the freedom within the Localism Act 2011 to consider its position in relation to security of tenure. On 26 July 2012 the Board considered this issue and agreed to adopt the same position as Derby City Council in relation to security of tenure for social housing tenants.
- 3.5 Derby Homes Tenancy Policy reflects this and details, in simple terms, what sort of tenancies are offered by Derby Homes and how to apply for a tenancy, it also states how we promote tenancy sustainment, prevent unnecessary eviction, tackle tenancy fraud, where we will grant succession rights. Finally the policy explains how customers can complain or appeal and how this will be dealt with by Derby Homes.

## **4. FINANCIAL & BUSINESS PLAN**

- 4.1 One of Derby Homes' strategic aims is Decent Homes and Successful Neighbourhoods. To ensure the Decent Homes Standard is maintained and that the investment decisions made help create sustainable communities and improve the popularity of council estates. The Localism Act 2011 provides Councils and other housing providers with new freedoms to better achieve their strategic goals.

## **5. LEGAL & CONFIDENTIAL**

The Localism Act 2011 provides the statutory basis for an extensive housing reform programme and obliges the Council to formulate a tenancy strategy as a legal requirement to comply with the Act.

The areas listed below have no implications directly arising from this report:

Consultation  
Council  
Personnel  
Environmental  
Equalities Impact Assessment  
Health & Safety  
Risk  
Policy Review

If Board members or others would like to discuss this report ahead of the meeting please contact the author.

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Background Information: None  
Supporting Information: None



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# **TENANCY POLICY**

## **1. INTRODUCTION**

Derby Homes is a registered housing provider and is required under the Localism Act 2011 to publish a Tenancy Policy.

The policy sets out the types of tenancy offered by Derby Homes, explains how homes are allocated and subsequently managed and also under what circumstances succession rights are applied.

The Policy will be reviewed at least every three years, or more frequently in the event of legislative change or review of the Tenancy Strategy by Derby City Council.

## **2. TENANCIES**

- 2.1 In respect of tenancies managed on behalf of Derby City Council all tenancies will be Secure Tenancies, following the usual introductory period for 'new tenants'.

Further detail on Introductory Tenancies, and Secure Tenancies can be found within the example tenancy agreement on Derby Homes website, [www.derbyhomes.org](http://www.derbyhomes.org).

- 2.2 Tenancies for Derby Homes' properties are initially let on assured shorthold tenancies, which transfer to assured tenancies after six months if the tenant has complied with the conditions of the tenancy.

Further detail on Assured tenancies can be found within the example tenancy agreement on Derby Homes website, [www.derbyhomes.org](http://www.derbyhomes.org).

- 2.3 Derby Homes manages some tenancies for other landlords. When letting such properties Derby Homes will let tenancies in accordance with the landlord's policies. Full details will be provided to prospective tenants during the advertising and offer process.

## **3. APPLYING FOR A PROPERTY WITH DERBY HOMES**

- 3.1 Derby Homes allocates properties in accordance with the Allocations Policy of Derby City Council. A copy of the Allocations Policy can be viewed at [www.derby.gov.uk](http://www.derby.gov.uk).

The Allocations policy explains the eligibility criteria for prospective applicants, how priority is allocated and under what circumstances exclusions are applied.

- 3.2 Homes are allocated through a choice based lettings system, Derby Homefinder. Further details can be found at [www.derbyhomefinder.org](http://www.derbyhomefinder.org).

- 3.3 In exceptional circumstances some allocations may be made outside of the choice based letting system. Such allocations are jointly approved by Derby Homes and Derby City Council Housing Options Centre.
- 3.4 Some properties and schemes may be subject to Local Lettings Plans and/or local conditions of tenancy. This is pre-agreed criteria on top of the general eligibility criteria. Such local lettings plans and/or local conditions of tenancy will be to address issues within local schemes/estates to address issues of sensitivity and sustainability. Where such additional criteria applies this will be included at the advertisement stage and discussed with applicants during the advertising and offer process.

## **4 TENANCY SUSTAINMENT**

- 4.1 All Introductory Tenants are assessed prior to commencing their tenancy and where appropriate will be required to engage with the Tenancy Sustainment Service. This service is provided for the duration of the introductory tenancy and provides new tenants with an intensive housing management service to ensure that they are equip with the necessary skills and knowledge to successfully manage their first tenancy/home. The service provides help with general budgeting, benefit entitlement and help making claims, liaison with utilities providers and regular planned visits to discuss progress during the introductory tenancy. The service will also liaise with more specialist support providers where this is found to be appropriate.

Further information on the Tenancy Sustainment Service can be found at [www.derbyhomes.org](http://www.derbyhomes.org).

- 4.2 Derby Homes also provides a Supported Living Service and Tenancy Support Service for elderly and other vulnerable tenants. Both of these services are Supporting People funded and are needs assessed.

Further information on the Supported Living Service and Tenancy Support Service can be found at [www.derbyhomes.org](http://www.derbyhomes.org).

- 4.3 General tenancy management is provided through the Derby Homes decentralised Housing Office network. Details of the locations, opening times and details of individual housing officers and income officers can be found at [www.derbyhomes.org](http://www.derbyhomes.org).

## **5 SUCCESSION**

Under certain circumstances, when a tenant dies a tenancy can be passed on to the spouse, or civil partner, and in some cases, other family members. This process is called 'succession'.

The law only allows one succession to a tenancy. In situations where the original tenancy was held in joint names, and one of the original tenants has died, the surviving joint tenant will have taken over the tenancy by succession so that there can be no further right of succession by another person.

Where someone succeeds to a tenancy, they will have the same type of tenancy as the person who died.

For anyone other than a spouse, or civil partner, if you succeed to a tenancy, and the property is larger than you need (under occupied) Derby Homes will work with you to find accommodation which is more suitable for your needs.

If you require more information on succession you should contact your Local Housing Office who will be able to assess individual circumstances and provide appropriate advice.

## **6. COMPLAINTS**

Derby Homes will always try to get things right first time. However if you are unhappy with the service you receive we have a complaints process.

Further detail on how to complain about our services can be found at [www.derbyhomes.org/contact-centre/complaints](http://www.derbyhomes.org/contact-centre/complaints).

**If you wish us to provide you with a down loaded copy of any of the documents referred to within this Policy please ask at any Local Housing Office or contact us through Derby Homes Enquiry Centre on 01332 888777.**

## EXECUTIVE SUMMARY

### Introduction – Legal Context and the Purpose of the Tenancy Strategy

- a) The framework under which social housing is resourced, allocated and managed will in future be radically different to that of a few years ago. Firstly, the government has set out a far-reaching programme of reform through the Localism Act 2011. Secondly, service delivery is taking place in the context of economic downturn and significantly reduced funds to local authorities and their partners.
- b) In light of these changes it is necessary to review the way we will continue to achieve our strategic housing objectives. In particular we need to assess the new freedoms provided by the Act and develop a strategic approach as to how we will utilise them to provide affordable housing of a decent standard, support vulnerable households, and promote cohesive and balanced communities. This is the purpose of the Tenancy Strategy - it sets out the basis for action on our own stock while also giving a steer to other private registered housing providers (housing associations) as to the position of the Council on the key issues<sup>1</sup>.
- c) Potentially the most controversial new freedom relates to security of tenure for social housing tenants: Whereas previously registered providers would issue lifetime tenancies to new tenants (usually following an introductory period), the position now is that they are able to grant new tenancies on a fixed term basis. At the end of the fixed term, subject to an assessment of suitability and continuing need, the tenancy may be renewed or allowed to expire.
- d) The Tenancy Strategy is therefore principally concerned with our approach to tenure reform and whether or not we will adopt the use of fixed term tenancies. However, reforms in related areas such as to rent models, allocations policies and measures to address homelessness also impact and in some cases overlap with tenure issues. Furthermore, government guidance requires that tenancy strategies be 'consistent with' homelessness strategies and allocations policies. Consequently, the strategy addresses not only tenure but also homelessness, allocations and rent models.
- e) Finally it should be stressed that the Tenancy Strategy is not concerned with the 'finer details' of tenancy management nor the mechanics of implementation – these are areas to be addressed in the more detailed tenancy policies which the Housing Regulator requires all registered providers to draw up. Rather, it is intended to highlight the Council's position on the broader principles and objectives that should be considered by providers when drawing up these policies.

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<sup>1</sup> Development of a Tenancy Strategy is also a legal requirement of the Localism Act

## The Reforms in Detail and the Strategic Approach of the Council

### *Background*

- f) Housing reform and certain welfare reforms are being implemented by the government to address what it sees as failings in the current system of providing social housing. These 'failings' can be summarised as follows:
- Social housing is a scarce resource and it is not being used as effectively as it could be to meet housing needs
  - Some low income households, unable to access social housing, are living in more expensive accommodation such as temporary accommodation
  - The housing benefit bill is considerable and rising
  - Compared to the private rented sector, the social rented sector is not as flexible in meeting needs and demand and providing mobility for those wishing to move to access employment.
  - New homes are desperately needed to meet housing need but there is a lack of public subsidy for new social housing supply
- g) In order to address these 'failings' the government is implementing wide-ranging reforms. A number of these reforms, such as to council housing finance and welfare, will be implemented nationally. But there are a large number of significant reforms where implementation will be subject to a degree of local discretion. These include:
- Introducing fixed term tenancies for social housing ('Tenure')
  - Using 'affordable rents' to deliver new housing supply with reduced public subsidy. 'Affordable' rents are set at higher levels than social rents, at up to 80% of market rent.
  - Giving local authorities greater control of their housing registers or waiting lists ('Allocations')
  - Enabling authorities to discharge their homelessness duty through an offer of accommodation in the private rented sector

It is these housing reforms with which the Tenancy Strategy is principally concerned and our strategic approach to their use is outlined below:



## 1) Tenure Reform

### *Details and Rationale*

- h) Registered Providers (including Councils and Housing Associations) are now able to let to housing register applicants on fixed term tenancies<sup>2</sup>. The purpose of this reform is to enable better targeting of the social housing stock to those in most need. It is expected that by giving shorter tenancies to those that are able to move on and access other housing options, stock will be freed up and made available to households in greater need.

### *The Council's Approach*

- i) The Council accepts that more effective matching of stock with those in most need is essential. However there is the danger that terminating tenancies on the basis of income may discourage self-improvement and result in the 'residualisation'<sup>3</sup> of estates. Our wide-ranging consultation also showed concerns about the effect on security for vulnerable tenants; disincentives to self-organised property repairs and settled and stable communities.
- j) Our approach therefore is to reject the use of fixed term tenancies and continue the practice of offering secure tenancies – following the usual introductory tenancy period. More effective matching of stock with those in most need will be achieved by reforms to our allocations processes while stable communities will continue to be supported by a range of measures including the selective use of local lettings plans.
- k) Private Registered Providers (Housing Associations) may decide to adopt a different approach with regard to their own stock. But we would highlight the potential downsides of such action and encourage remedial measures to be implemented wherever possible.

## 2) Affordable Rents

### *Details and Rationale*

- l) Subject to certain conditions, a proportion of new-builds and relets can be designated 'affordable rent' properties with rents charged at up to 80% of a market rent. The intention here is that the additional funding generated by the higher rents can be used to support new build investment in a time where Homes and

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<sup>2</sup> Often referred to as 'flexible tenancies' in relation to Council stock.

<sup>3</sup> Estate 'residualisation' occurs when higher income households move on resulting in the majority of remaining residents being comprised of households on benefits or low incomes

Communities Agency (HCA) subsidy is falling dramatically.

### *The Council's Approach*

- m) Because letting properties at 'affordable rents' will result in higher rent levels, we have concerns over the implications for affordability and consequent accessibility for housing register applicants. Furthermore, our research has shown that rent rises for larger properties of three and four bedrooms are likely to be disproportionately higher than rises for smaller properties. However, the use of affordable rents is usually a pre-condition for gaining HCA subsidy – which in many developments is crucial to achieving financial viability.
- n) Consequently, in order to be able to continue to develop new housing for Derby's residents we accept the use of the affordable rent model. We would where appropriate, however, consider new developments on a case by case basis, to maximise as far as possible the affordability of new build properties to households on our housing register. We would particularly seek to limit rent rises to one-bed properties in order to encourage down-sizing and tackle under-occupation

## 3) Homelessness

### *Details and Rationale*

- o) It is now possible to discharge the duty to homeless households by the offer of suitable accommodation in the private rented sector (PRS). (Previously the household could refuse an offer in the PRS and insist on an offer with the Council or a Housing Association). This change is intended to respond to the shortage in social housing while also reducing the substantial costs that can arise from accommodating households in temporary facilities.

### *The Council's Approach*

- p) We welcome these changes as an additional tool to tackle and prevent homelessness. They should also reduce costs and facilitate access to private accommodation in locations where there is no social housing. The minimum length of a private rented tenancy considered suitable for a homeless household will be 12 months.

## 4) Allocations

### *Details and Rationale*

- q) Whereas previously almost anyone could apply for social housing, local authorities now have the freedom to set their own eligibility criteria to join housing registers (waiting lists), according to local needs and priorities.
- r) This measure, as with tenure reform, is primarily intended to allow housing to be targeted at those in most need. Households able to access other tenures, such as in the private rented sector, will be expected to pursue those options instead, rather than joining the social housing register.

### *The Council's Approach*

- s) Our analysis finds that our allocations system is in need of fundamental review. Data from Derby Homefinder shows that many households on the register stand no realistic chance of being housed, while average waiting times for 2 bed properties are over one year. Households seeking four bed properties wait on average over two and half years.
- t) A review of our allocations system is due to be undertaken independently of the formulation of the Tenancy Strategy. However, the key areas under consideration will be as follows:
  - Eligibility to join the register may be restricted to those applicants with a realistic chance of being housed. This may involve a restriction to the 'reasonable preference groups' with some supplementary categories to take account of local circumstances.
  - To assist with geographical mobility the 'local connection' requirement may be made more flexible.
  - Choice Based Lettings (CBL) may be reviewed to see if it can be complemented with additional allocations processes
  - The housing register will be maintained at a level that will sustain demand and allocations to private Registered Providers (Housing Associations)
  - Additional preference may be given to those making a 'positive contribution to the community'
- u) A tabulated summary of the key issues and the approach of the Council is provided on the next page: