
	Cabinet Member Decision 19 December 2019
	Report from Strategic Director, Community Well Being
Tenancy Strategy consultation	

Wards Affected:	All
Key or Non-Key Decision:	Non-Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – Draft Tenancy Strategy Brent Council Tenancy Strategy 2012-2013
Background Papers:	 Brent Tenancy Strategy.pdf
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1. Purpose of the Report

- 1.1. The aim of this report is to seek approval from the Cabinet Member for Housing and Welfare Reform and start the formal process for consultation on the draft tenancy strategy.
- 1.2. The Localism Act 2011 (“the Act”) was instrumental in empowering Councils to influence how social housing is offered and managed in their local area.
- 1.3. The Act placed a duty on local housing authorities (which includes Brent Council) to produce a tenancy strategy. The purpose of the strategy is to communicate local housing need and, how the offer of social housing should support the Council’s overall vision to meet housing need. The tenancy strategy for Brent

was last approved by the Council's Executive (Cabinet) in July 2012 and needs to be reviewed. The previous strategy advocated the use of fixed term tenancies to ensure social housing went to those most in need, the first fixed term tenancies issued following the Localism Act 2012 have now ended enabling the Council to review its position on granting tenancies. To develop a new strategy, the Council has worked with partners, researchers and Brent residents. This report will include an overview of activities, which shaped the proposed tenancy strategy.

2. Recommendations

- 2.1. That the Lead Member for Housing and Welfare Reform note the contents of the report and approve the start of formal consultation on the tenancy strategy.

3. Background

- 3.1. Under section 150 of the Localism Act, the Council is required to develop and publish a tenancy strategy. This strategy must set out the Council's position on:
 - The type of tenancies granted in the borough;
 - How a person's circumstances should be considered when deciding the type of tenancy to grant;
 - The length of time a tenancy will be granted for;
 - How tenancies will be managed towards the end, including the offer of a new tenancy.
- 3.2. The Act removed the requirement for Registered Providers (RPs) and Councils to offer the most secure tenancy possible and introduced a new type of tenancy for Councils known as a fixed term tenancy. The aim of this was to allow social housing landlords to review a tenant's circumstance at the end of a tenancy and if improved, support the household into alternative tenures such as the private rented sector (PRS) or into affordable home ownership schemes.
- 3.3. In 2012, the Council developed a tenancy strategy and set out a strategic framework to which providers of social housing should have regard. This strategy centred on the Council's intention to adopt five year fixed term tenancies and supported their use by all RP's in Brent. The remainder of the strategy focused on providing social housing landlords' with a summary of housing demand in Brent.
- 3.4. Since the Localism Act 2011, support for fixed term tenancies has changed dramatically. In 2016, the Housing and Planning Act ("the 2016 Act") set out to make fixed term tenancies mandatory. This proposal in the 2016 Act was not enacted and the Government's reversal of this policy was confirmed in the government's green paper 'A new deal for social housing' 2018. This reversal was a catalyst for some large RPs including L&Q and Peabody and Councils such as Royal Borough of Kensington and Chelsea to end the use of fixed term tenancies entirely.

- 3.5. Additionally, in the Secure Tenancies (Victims of Domestic Abuse) Act 2018, there is a requirement for Councils to grant secure 'life time' tenancies to *“a person who is or was a tenant of some other dwelling-house under a qualifying tenancy (whether as the sole tenant or as a joint tenant), and the Council is satisfied that (i) the person or a member of the person’s household is or has been a victim of domestic abuse carried out by another person, and (ii) the new tenancy is granted for reasons connected with that abuse”*. That 2018 Act also provides a requirement for Councils that are local housing authorities to grant a life time secure tenancy of a dwelling where the tenant had been previously a joint tenant of that dwelling under a life time secure tenancy and the Council is satisfied that (i) the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and (ii) the new tenancy is granted for reasons connected with that abuse. However, section 1 of that 2018 Act, which contains these provisions, is not yet in force. Further details are set out below in paragraph 7.6 of this report.
- 3.6. This draft tenancy strategy introduces a new way of working for the Council. Previously, the strategy sought to fulfil the obligations of the Localism Act 2012. The Council now sees the opportunity to use this strategy as a vehicle to champion principles such as security and stability for all Brent residents who rent, including the 36,000 households in the PRS.
- 3.7. Changes in legislation and evidence suggesting the chronic shortage of social housing means the use of fixed term tenancies does not lead to social mobility, is the core change featured within this strategy. Instead, it focuses on the need for security of tenure from landlords, including the Council. The strategy positions the Council as a leader and role model by committing to end the use of fixed term tenancies for Brent Council tenants. This is outlined further in a follow up report outlining a draft tenancy policy.
- 3.8. The draft tenancy strategy sets out four outcome based commitments and a series of clear actions to deliver over the term of this strategy. These commitments work within the limits of the authority the Council has over the PRS and working with RP's. Instead, it utilises relationships, tools already at the Council disposal e.g. Work with RPs allocations, and lettings teams to highlight any members of the household considered vulnerable so they are granted a longer tenancy.

Housing need in Brent

- 3.9. Understanding local housing need is key to developing a successful Tenancy Strategy. The table below shows housing need by bedroom size for households living in Temporary Accommodation.

Bedroom need	Number of households
One bedroom	448
Two bedrooms	786
Three bedrooms	1156
Four bedrooms	401
Five bedrooms	78
Six or more bedrooms	11

Table one: household need in Temporary Accommodation (October 2019)

- 3.10. The majority of households are in need of a family sized home, with our greatest demand being for 3-bedroom homes. The current waiting time on the Housing Register is dependent on the size of the home; however, the average waiting time is 14 years.
- 3.11. Consultation with Brent residents living in temporary accommodation, particularly families with young children highlighted how important it was to them to be a tenancy for life.
- 3.12. In 2018, the Council commissioned the University of Cambridge to analyse affordability and housing within Brent. Using the example of a household with a 3-bedroom need (couple with two children), the findings were;
- 44% cannot afford the average 3 bed Council home at social rent without housing benefit
 - 53% cannot afford the average 3 bed home at London Affordable Rent without housing benefit
 - 71% cannot afford the average 3 bed home in North West London at Local Housing Allowance levels without housing benefit
- 3.13. This research not only shows that affordability plays a big part in Brent residents ability to sustain a tenancy, but the lack of security in tenure could discourage households from improving their earning potential as they may be moved into an alternative tenure and increased income would go towards higher rents.
- 3.14. Whilst this strategy advocates security of tenure, the Council advocates that in social housing, it is the tenancy that is secure, not the home. A post to target households able to downsize, enabling them to maintain their tenancy but freeing up large and much needed council homes. To date for 2019, 31 households have been rehoused making available; 2 x 5 bedroom homes, 5 x 4 bedroom homes, 16 x 3 bedroom homes and 18 x 2 bedroom homes. This approach is being shared with RP's as an example of best practice.

4. Strategy vision and commitments

- 4.1. The draft tenancy strategy sets out a vision that *“all Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a*

guaranteed level of security in their home.”

- 4.2. It is important to note, this strategy although is obligatory for the Council only requires social landlords to have regard to its contents. Additionally, as the Council has chosen to widen the scope of the Localism Act to the PRS it is voluntary for PRS landlords. The Council has developed this vision and four outcome based commitments as a framework for best practice rather than an approach that can be enforced. The success of this strategy will instead be dependent on the relationships built between the Council, RP's and PRS landlords, utilising tools where the Council can influence. Additionally, the Council is landlord to 7,717 tenants and by acting as a role model can guarantee delivery of this strategy for Brent Council tenants.
- 4.3. Commitment one: When moving into a new home, Brent residents are offered the longest tenancy possible. To achieve this, the Council will;
- End the use of fixed term tenancies for Brent Council tenants.
 - Encourage RPs to offer secure tenancies to Brent residents.
 - Work with RPs allocations, and lettings team to highlight any members of the household considered vulnerable so they are granted a longer tenancy.
 - Maximise the use of incentives for private landlords to encourage longer tenancies at Local Housing Allowance rent levels.
- 4.4. Commitment two: Brent residents understand their tenancy agreement and how long their tenancy is for. To achieve this, the Council will;
- Proactively promote this strategy so residents understand what the Council expects from landlords in Brent
 - Encourage all landlords to use interpreters at the point of sign up and the publication of tenancy agreements in other languages.
 - Signpost to services in Brent who can offer independent advice to renters on their tenancy agreements.
 - Encourage all social housing landlords to publish template tenancy agreements online including easy read versions.
 - Challenge all social housing providers of supported housing to regularly audit themselves against the 'real tenancy test' to ensure Brent residents living in supported housing are receiving their full tenancy rights.
- 4.5. Commitment three: Brent residents are supported to stay in their home and or tenancy for as long as it remains suitable for them. To achieve this, the Council will;
- Challenge RPs to keep Brent residents in their tenancy if they are forced to leave their home (e.g. fear of violence) by enabling a transfer or reciprocal arrangement.
 - Support people at risk of homelessness to sustain their tenancy through the Councils Homelessness Prevention service.

- Improve in self-help resources on our website so Brent residents or landlords know who to contact if they are worried about their tenancy and can access this information 24/7.
- Work with Central Government to introduce the end of section 21 (no fault evictions) and challenge landlords who repeatedly use them.
- Facilitate downsizing initiatives with RP's through nominations agreements and support RP's to use new smaller homes built in the borough

4.6. Commitment four: Brent residents are supported if, or when their tenancy ends to avoid homelessness. To achieve this, the Council will;

- Ensure RPs fulfil their responsibilities under the Homelessness Reduction Act 2017 and work with the Council at the earliest possible point if a tenancy is likely to end.
- Offer training and publish information for RPs on what advice to provide if someone is a risk of a tenancy ending.
- Ensure every Brent resident whose tenancy is ending is given a personalised housing plan so they understand their housing options and relieve their homelessness before their tenancy is comes to an end.
- Influence RPs reviewing fixed term tenancies and discourage ending tenancies unless a household's circumstances have significantly improved financially
- Promote the offer of a deposit guarantee scheme to help people in the PRS start a tenancy whilst a deposit is being held by another landlord.

5. Consultation

5.1. The Localism Act 2011 stipulates how the Council must consult with key stakeholders e.g. RPs, Mayor of London (see point 7.4). The following table sets out the proposed approach to consultation and approval. The consultation will proactively seek to engage both social housing tenants, households in temporary accommodation and those in the PRS. Key partners will be invited to put forward feedback on the proposed strategy e.g. RP's, Advice4Renters, Citizens Advice Bureau, National Landlords Association.

5.2. The purpose of the consultation is to not only understand capture the thoughts of residents who will benefit from the proposed approach but also identify potential issues for landlords.

Action	Start date	End date
Send proposed strategy to partners	16 December 2019	07 February 2020
Publish Strategy and supporting questions on the Consultation Hub for residents		
Send Consultation Hub link to Resident Associations and Tenant Management Organisations		

Send proposed strategy to Ministry for Housing Communities and Local Government		
Amend Strategy & develop equality impact assessment	February 2020	
Return to CMT	February 2020	
Return to PCG	March 2020	
Leaders Briefing	March 2020	
Cabinet	March 2020	
Strategy roll out	May 2020	

6. Financial Implications

- 6.1. The Tenancy Policy will be delivered within existing resources in the Housing Revenue Account (HRA). The 2019/20 staffing budgets for Housing Officers who undertake tenancy management function is £0.68m
- 6.2. The Tenancy Policy will be delivered within existing budgetary framework within the Housing General Fund. The Council is planning to deliver a significant number of new properties in the coming financial years. In many cases, this will allow the council to offer permanent residences to those currently in Temporary Accommodation.
- 6.3. Minimum tenancies will not impact on emergency temporary accommodation. The very nature of such accommodation is that it is designed to be short term, whilst a customer's claim for homelessness is assessed. Providing minimum tenancies for customer's would not be desirable for either the customer or the council.
- 6.4. Potentially there may be a financial impact arising if we are required to offer minimum tenancies for certain types of temporary accommodation, such as the Housing Association Leasehold Scheme. Existing tenancies are often for shorter periods than those promised in this paper. If we are required to negotiate longer periods with Housing Associations, this may impact on the contractual costs.

7. Legal Implications

- 7.1. Under section 150(1) of the Localism Act 2011, a local housing authority (which includes Brent Council) must prepare and publish a tenancy strategy setting out matters to which the registered providers of social housing are to have regard in formulating policies relating to the following:
- (i) the kinds of tenancies they grant;
 - (ii) the circumstances in which they will grant a tenancy of a particular kind;
 - (iii) where they grant tenancies for a term certain and the lengths of the terms;
 - and
 - (iv) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

- 7.2. A housing authority must have regard to its tenancy strategy in housing management functions (section 150(3) of the Localism Act 2011). A local housing authority must keep its tenancy strategy under review and may modify or replace it from time to time (section 150(5) of the Localism Act 2011).
- 7.3. Under section 151 of the Localism Act 2011, before adopting a tenancy strategy (and before making a modification to it reflecting a major change of policy), the local housing authority must do the following:
- i) send a copy of the draft tenancy strategy (or proposed modification) to every private registered provider of social housing for its district and give the private registered provider a reasonable opportunity to comment on those proposals;
 - ii) consult other such persons as the Secretary of State may proscribe by regulations (to date, no such regulations have been made);
 - iii) for a London borough Council, consult the Mayor of London.
- 7.4. When preparing or modifying its tenancy strategy, a local housing authority must have regard to the following: its current allocation scheme under section 166A of the Housing Act 1996; its current homelessness strategy under section 1 of the Homelessness Act 2002; and in the case of a London borough Council, the London housing strategy which is prepared by the Mayor of London.
- 7.5. Section 1 of the Secure Tenancies (Victims of Domestic Abuse) Act 2018 inserts section 81B into the Housing Act 1985 which sets out two circumstances where victims of domestic abuse must be granted old-style secure tenancies (i.e. without a fixed term as opposed to a fixed term flexible secure tenancy) by a local housing authority in relation to an allocation of social housing. However, section 1 of this 2018 Act is not yet in force. The two circumstances are set out below:
- a) the tenancy is offered to a person who is or was a tenant of some other dwelling-house under an old style secure tenancy or assured tenancy with a registered provider of social housing, the social housing regulator or a housing trust that is a charity (whether as the sole tenant or as a joint tenant), and
- the Council is satisfied that—
- b) the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and
 - c) the new tenancy is granted for reasons connected with that abuse.

(Second)

- a) the tenancy is offered to a person who was a joint tenant of that dwelling-house under an old-style secure tenancy, and

the Council is satisfied that—

- b) the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and
- c) the new tenancy is granted for reasons connected with that abuse.

The words “abuse” and “domestic abuse” are defined in section 1(2C) of the Secure Tenancies (Victims of Domestic Abuse) Act 2018.

8. Diversity Implications

- 8.1. To facilitate the councils understanding of how the proposed strategy might impact individuals with protected characteristics, consultation will include an opportunity for residents to submit feedback specifically relating to equality. This feedback will be used to inform the equality impact assessment.

Report sign off:

PHIL PORTER

Strategic Director Community Wellbeing