


## Executive Decision Report

<b>Decision maker</b>	Full Cabinet  Date of decision 21 March 2013.  Forward Plan reference: KD03965	 <small>THE ROYAL BOROUGH OF</small> <b>KENSINGTON AND CHELSEA</b>
<b>Report title (decision subject)</b>	<b>TENANCY POLICY AND DRAFT ALLOCATION SCHEME</b>	
<b>Reporting officer</b>	Laura Johnson, Director of Housing	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public	

## **1. EXECUTIVE SUMMARY**

This report presents the draft Tenancy Policy and the draft Allocation Scheme for agreement to proceed with public consultation.

## **2. RECOMMENDATIONS**

That Officers proceed with public consultation of the draft Tenancy Policy and the draft Allocations Scheme.

## **3. REASONS FOR DECISION**

Both policies introduce significant changes to the way in which social housing is allocated and let. A full public consultation will publicise the proposals and explain the reasons for them, giving affected Common Housing Register applicants the opportunity to understand reasons for the changes and contribute to the consultation.

## **4. BACKGROUND**

- 4.1 In November 2012, the Tenancy Strategy (now published) was presented to Leaders Group. The presentation included the principles underlining the Tenancy Policy. This report presents the draft Tenancy Policy and details the intended approach to the introduction of fixed term social housing tenancies..
- 4.2 The report also presents details revision to the draft Allocation Scheme.. The two policies are closely linked and have been developed in tandem in order to produce two consistent policies that inform and compliment each other.
- 4.3 The Tenancy Policy in appendix 1 details how the Royal Borough will issue tenancies to RBKC Council housing which, Kensington and Chelsea Tenant Management Organisation (KCTMO) manage on its behalf.
- 4.4 The Allocation Scheme in appendix 2 sets out the Royal Borough's priorities and procedures when allocating housing; it is framed to ensure that reasonable preference is given to a number of defined categories.
- 4.5 Development of both policies took place within the context of national policy changes, particularly the new freedoms and flexibilities granted to local authorities under the Localism Act.
- 4.6 The Localism Act introduced the option for social landlords to use fixed term social tenancies. This is a change from the existing Secure and Assured tenancies offered by Councils and Housing Associations (referred to as housing providers) which last for the life of the tenant, unless they end the tenancy or breach the tenancy. The Royal Borough as a landlord intends to use fixed term tenancies and must therefore produce a Tenancy Policy setting out how we will

issue, manage, review and re-issue fixed term tenancies. We must state the tenancy lengths we will use and how this will be assessed.

- 4.7 The Localism Act has enabled the provision of flexible tenancies, the introduction of Affordable Rents and the option to discharge our housing duty by offering accommodation in the private sector.

## **5. PROPOSAL AND ISSUES**

### **5.1 The draft Tenancy Policy**

- 5.1.1 The decision to offer fixed term tenancies rather than lifetime tenancies is at the discretion of the landlord. The Localism Act states the term of the tenancy has to be at least five years, although two year tenancies can be offered in certain circumstances. This is the approach that is recommended in our tenancy policy..
- 5.1.2 A key principle of the Council's approach to fixed term tenancies is to provide stability to households which need it, particularly for vulnerable households.
- 5.1.3 However, the use of flexible tenancies will also provide an opportunity to make best use of the stock and provide an opportunity for those who are in unsuitable housing to move, and in particular to help those who are in properties that are too large to move to a more suitable sized property (which in turn can help alleviate overcrowding) and also to help people move for work.
- 5.1.4 The draft Tenancy Policy sets out circumstances under which the tenancy will not be reissued.. There are income and savings thresholds over which tenancies will not be reissued, as well as assessment of the tenant(s) conduct and behaviour, these circumstances are set out in section 5 of the draft policy.
- 5.1.5 The change from lifetime tenancies to fixed term tenancies will impact on tenancy and housing management (which will be mainly undertaken by the TMO) and on the expectations of those accessing Council housing. New procedures and a new tenancy agreement have been drafted to support the changes proposed by this policy.
- 5.1.6 Residents who were granted a tenancy prior to 1 April 2012 are protected under the Localism Act 2011. This means their security of tenure cannot be removed, unless they choose to move to a housing association property. However, if they transfer to another TMO property, they will receive another lifetime tenancy rather than a fixed term tenancy.
- 5.1.7 The Tenancy Policy proposes that any tenants who have signed a lifetime tenancy before the start date of the policy are protected from the changes. This is to prevent legal challenge from any tenants who have signed their tenancy agreement since 1 April 2012 and were not told that if they moved they could lose their lifetime tenancy.

5.1.8 Leaflets describing the changes (and in particular changes to tenancy length) have been available since late 2011 and housing associations have been offering fixed term tenancies for over six months now to their stock in the borough. Whilst this has led to some questions, it has had no affect on the Council's ability to let these properties.

## **5.2 The draft Allocation Scheme**

5.2.1 The majority of the proposed changes to the scheme stem from the new freedoms and flexibilities under the Localism Act and are therefore at our discretion.

5.2.2 We have taken preliminary legal advice from Counsel on the majority of our proposals. No major concerns were raised. In fact the underlying tone was that the new flexibilities allow us considerable leeway to introduce changes that suit us locally, alongside some continuing obligations that the scheme must include.

5.2.3 Headline revisions are:

- Making local residence of three years a pre requisite to joining the register. This removes the risk of applicants being housed ahead of local people in housing need, removes the need to award local residency points and sends a realistic message to applicants.
- Increased use of direct offers in certain circumstances. This will ensure quicker allocation of properties whilst continuing to meet assessed need.
- Significant re-write of 'emergency health and independence' and 'supporting health and independence' sections, including not offering a review facility for medical assessments unless a major change has occurred. This will significantly reduce the time currently taken up in assessing minor medical conditions or changes and will send a clear message that many medical conditions will not necessarily be improved by a move to another property.
- Award fifty points to Armed Forces Personnel who fall within one or more of the statutory reasonable preference categories and who have urgent housing needs who meet the armed forces personnel definition.
- Tightening the number of offers allowed and penalties for refusal. This aims to make applicants think seriously before refusing offers that are deemed suitable for their needs, rather than refusing multiple offers in the hope of their 'perceived' ideal property materialising.
- Discharge of duty to Affordable Rent tenancies (change already implemented).

- Award fifty points where applicants or their partners who qualify for registration are in paid work averaging 16 hours or more per week. This supports economic growth, reduces social polarisation and benefits the economy and wider community.

5.2.4 A significant change to the scheme is the removal and exclusion of all low pointed households from the register, including low pointed 'Reasonable Preference' cases with five points; i.e. those households who have insufficient priority for rehousing.

5.2.5 This change will mean that approximately 6482 applicants currently registered for housing would be removed from the list.

Points	Number of households
0	5145
5	1175
10	145
15	16
20	1
Total under 50 points	6482
50 points or over	2387

5.2.6 A number of these applicants will, at the very least be disappointed by this proposal as many still operate under the misapprehension that they will eventually be rehoused if they wait on the register. This is not the case. The majority of these households are assessed as not having sufficient priority for rehousing to ever be offered a social housing tenancy and yet they remain on the Housing Register, some under a false sense of hope that they will get an offer in time. This situation is unfair and does not prompt people to look for other, more timely housing solutions.

5.2.7 The removal/ exclusion of these households will provide clarity and manage people's expectation realistically. Additionally, administration time and costs will be lowered and increased resources may be used to provide a more engaged and targeted service to residents in need of rehousing.

5.2.8 Given the large number of people that would be removed from the register, the process will be managed by writing to each person explaining the reasons behind the proposal and giving them the opportunity to contribute to the consultation.

## 6. OPTIONS AND ANALYSIS

The Localism Act has given Local Authorities greater discretion about the way in which tenancies can be granted to allow best use to be made of the limited supply of social housing. As this is closely allied with the Council's Allocations Policy the two are being considered together. The Council could chose not to change either policy but this could mean losing the opportunity to make better use of our housing stock than has happened to date.

## **7. CONSULTATION**

The draft report has been considered at Digest of the Cabinet Member for Property and Housing.

## **8. EQUALITY IMPLICATIONS**

As this report is for permission to consult only, an Equality Impact Assessment will be completed for the revised Allocation Scheme and Tenancy Policy..

## **9. LEGAL IMPLICATIONS**

Legal opinion has been sought from Counsel as the tenancy policy has been drafted and on the changes to the allocation policy, following the consultation period further legal advice will be sought on the final policy.

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

As this report is for permission to consult only, any financial implications will be assessed once the final policy documents are drafted. However the work is being undertaken to cost the changes required to tenancy management as tenancy will need to be reviewed more regularly than currently and to the workload of the Housing Options team both to remove over six thousand applicants from the CHR and the subsequent management of the remaining applicants..

*Laura Johnson*  
**Director of Housing**