

Cabinet – 17 March 2021

Black Country Tenancy Strategy

Portfolio: Councillor Andrew – Deputy Leader, Regeneration

Related portfolios: None

Service: Money Home Job

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

The aim of the Black Country Tenancy Strategy (Appendix A) is to enable a uniform approach across the Black Country Region for the administration of both Fixed Term Tenancies and Affordable Rents by registered providers of social housing.

2. Summary

2.1 The Localism Act 2011 requires the Council to publish a Tenancy Strategy (the “Strategy”). This legislation brought in the ability for registered providers of social housing (RPs) to provide Fixed Term Tenancies (FTT), and for the use of Affordable Rents. The Strategy sets out the matters that RPs should consider when developing their own tenancy policies. It should be noted that the majority of RPs in Walsall have either never introduced FTT, or have now adopted an approach of only using FTT in a minority of cases, for example rent to buy homes or certain supported accommodation.

2.2 The first Black Country Tenancy Strategy was produced in 2012 in partnership with Dudley, Sandwell and Wolverhampton councils, and was approved by this Cabinet on 24 October 2012. This approach was taken so that consistent guidance was provided to RPs who work in the Black Country. The requirement to have a Strategy is still in place, and so the four Black Country local authorities (LAs) have reviewed the Strategy. This review concluded that minor changes should be implemented, including lengthening the FTT review and notification period, and reaffirming our current requirement for social rent housing where possible, whilst accepting new external grant funded homes will be Affordable Rent. All four LAs are seeking approval of their respective Cabinets prior to the proposed implementation date of 1 April 2021.

2.3 This is a key decision because it affects more than two wards.

3. Recommendations

- 3.1 That Cabinet approve the Black Country Tenancy Strategy as set out in Appendix A
- 3.2 That Cabinet delegates authority to make any future minor amendments to the Strategy, if and when required, to the Executive Director Children's Services in consultation with the Deputy Leader, Regeneration.

4. Report detail - know

Context

- 4.1 The Localism Act 2011 introduced provision for flexible secure tenancies, referred to as Fixed Term Tenancies (FTTs), for RPs. These tenancies can be issued for fixed terms and, based on a set of specific criteria, can either be renewed or terminated at the close of the term. The legislation also brought in the use of Affordable Rents for social housing tenants (affordable rent conversions). Affordable Rents are calculated to a charge of up to 80% of the local private rented market level in accordance with set regulations, and are typically higher than social rents.
- 4.2 Section 150(1) of the Localism Act 2011 states that a local authority must publish a Tenancy Strategy setting out the matters to which RPs operating within their district must '*have regard*' when formulating policies relating to:
 - the kinds of tenancies that they grant;
 - the circumstances in which they will grant a tenancy of a particular kind;
 - where they grant tenancies for a certain term, the lengths of the terms; and,
 - the circumstances in which they will grant a further tenancy at the end of an existing tenancy
- 4.3 As the majority of RPs operating in Walsall also have stock across the rest of the Black Country, the Tenancy Strategy in 2012/13 was developed in partnership with Dudley, Sandwell and Wolverhampton Councils. This sub regional collaboration has the advantage that RPs operating across the Black Country Region will have standard guidance to work to. This approach has therefore again been adopted for the review of the Strategy, to produce a Black Country wide Tenancy Strategy that, in accordance with the legislation outlined in 4.2 above, sets out how RPs operating across the Black Country Region will be expected to administer both FTTs and Affordable Rents.
- 4.4 The review has concluded that the following key amendments should be made regarding FTTs:

- Reviews will take place at least nine months prior to the fixed term tenancy ending (instead of the current six).
- Tenants to be notified of the review outcome and the decision at least six months instead of three months before the fixed term tenancy ends
- To discontinue with the monitoring requirements. This has proved to be impracticable and difficult to administer since the current strategy took effect.
- To add greater clarity around the housing based situations that a decision could be taken not to renew a fixed term tenancy, including where:
 - The property is adapted and no-one residing at the property requires the adaptations
 - The financial circumstances of the tenant have changed to such an extent that other housing options would be more appropriate.
 - The tenant and/or their advocate do not engage in the FTT review process.
 - The tenant comes into legal ownership of another home or property.

4.5 The review has concluded that the following key amendments should be made to the administration of Affordable Rents:

- As a local authority, we currently expect that a proportion of new build affordable housing is social rent. However, we also understand that any rented homes provided by RPs which are funded through Homes England's Affordable Homes Programme will be Affordable Rent.
- Where affordability is an issue, as a local authority we expect the landlord to provide support to the tenant to enable them where possible to access and sustain the tenancy rather than exclude the household in the first instance
- That converting from social rent to affordable rent is not supported unless there is a direct link to the funding of additional affordable or social homes within the region

Council Corporate Plan priorities

4.6 The Strategy will contribute to the Council's priorities as follows:

- Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion – the Strategy promotes long term and sustainable tenancies, rather than FTT.

Risk management

- 4.7 The Council is at risk of not meeting a statutory obligation unless it approves this Strategy. There are no specific risks for the Council associated with the content of the Strategy.

Financial implications

- 4.8 There are no financial implications for the Council.

Legal implications

- 4.9 Section 150(1) of the Localism Act states that all local authorities must publish a strategy that sets out the matters to which registered providers of social housing operating in their district must '*have regard*' when formulating policies relating to Fixed Term Tenancies and Affordable Rents. The adoption of the Strategy will ensure that the Council is not open to any form of legal challenge and maintains its statutory obligations in this context. The strategy will come into effect from 1 April 2021.

Procurement Implications/Social Value

- 4.10 There are no procurement implications for the Council.

Property implications

- 4.11 There are no property implications for the Council.

Health and wellbeing implications

- 4.12 The principles and actions contained within this report are in full accordance with the Marmot objectives. The advice to RPs to minimise both the use of FTTs, and conversion of social rent units to affordable rent, will help households to have secure, affordable and sustainable tenancies.

Staffing implications

- 4.13 There are no staffing implications for the Council.

Reducing Inequalities

- 4.14 The implications for reducing inequalities have been taken into account and assessed as set out in a detailed Equality Impact Assessment (EQIA). The EQIA does not show any negative impact for particular groups and is attached at Appendix B.

Consultation

- 4.15 Consultation has been carried out with Dudley, Sandwell and Wolverhampton Councils, and with all the main RPs operating across these areas. There have

been no objections to the revised Strategy from any of the RPs operating within Walsall. During the consultation exercise many RPs reported that they intended to reduce or discontinue with FTTs, largely on account of the administrative burden involved, and a number of others confirmed that they have not used the FTT option anyway.

5. Decide

A 'do nothing' option is not seen as viable, as it is a statutory requirement for a local authority to publish a Tenancy strategy.

6. Respond

If approved, then officers will work with local RPs to ensure that they understand the requirements and implications of the Strategy.

7. Review

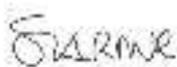
The number and percentage of FTTs will be monitored on an annual basis.

Background papers

None

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Signed
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Executive Director
Childrens Services
March 2021



Signed
Councillor A Andrew
Portfolio Holder Regeneration
March 2021