

## Report for Resolution

**Report to** Cabinet  
14 March 2012  
**Report of** Director - Regeneration and Development  
**Subject** Tenancy Policy - Housing

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Item

11

### Purpose

To advise cabinet of the proposed introduction of a tenancy policy for housing.

### Recommendations

To agree the council's tenancy policy as detailed in annex A.

### Financial Consequences

There are no financial consequences arising from this report.

### Risk Assessment

The Council, as a provider of social housing, will meet the revised the regulatory standards by publishing a clear and accessible tenancy policy in April 2012. The policy mitigates the risk to the council of scrutiny by the new co-regulation body, enforcement action by the social housing regulator, and legal challenge. On this basis there are no significant risks associated with the implementation of the policy.

### Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priorities:

“Safe and healthy neighbourhoods – working in partnership with residents to create neighbourhoods where people feel secure, where the streets are clean and well maintained, where there is good quality housing and local amenities and where there are active local communities”

**Cabinet Member:** Councillor MacDonald - Housing

**Ward:** All wards

### Contact Officers

Emma Smith, housing strategy officer  
Paul Swanborough, strategic housing manager

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## **Background Documents**

- TSA Regulatory Standards
- Localism Act 2011
- Housing Act 1996
- Housing Act 1985
- Tenancy Agreement 2010 edition

## **Report**

### **Background**

1. As part of the wider package of social housing reforms, the Government has introduced the requirement for all social landlords to publish a tenancy policy. The reforms include the introduction of fixed term tenancies and affordable rent, changes to allocations and homelessness and promotion of increased mobility for social tenants. These reforms are being implemented through the Localism Act and changes to the regulatory standards that all social landlords are expected to meet.
2. From April 2012, the Homes and Community Agency will replace the Tenants Services Authority as the social housing regulator. At this time a revised regulatory framework will be introduced along with a revised set of regulatory standards, a link to which can be found in section 10 of this policy. It is the Tenure element of the revised Tenancy standard that states the requirement for all social housing providers to publish clear and accessible tenancy policies by April 2012.

### **Policy**

3. The tenancy policy is an overarching document that sets out:
  - the kinds of tenancies that the council will offer, and at what rent
  - the circumstances in which tenancies will be granted
  - the length of tenancies granted
  - the process for reviewing tenancies
  - whether the council will grant discretionary succession rights, and if so to who
  - interventions used to sustain tenancies
  - the council's approach to tackling tenancy fraud
  - how frequently the policy will be reviewed.
4. The policy provides clarity to Norwich City Council tenants, and protects the council from legal challenge. The council does not offer fixed tenancies therefore the aspects associated with this type of tenancy that could be open to legal challenge do not apply.
5. It should be noted that the requirement for social housing providers to publish a tenancy policy is different to the statutory requirement, under the Localism Act, for all local authorities to develop a tenancy strategy by January 2013.

## **Consultation**

6. This is the council's first tenancy policy and has been informed by existing policies and procedures; it does not contain new practices. Therefore, the policy has not been out for formal consultation although it has been circulated to members of the CityWide Board. The chair of the board has no objections to the policy. It has been approved by NPLaw.
7. The policy is a transitional document and will be reviewed and consulted on during 2012/13 as part of a wider project covering the following:
  - development of a revised housing strategy for Norwich
  - development of a new strategic tenancy strategy
  - revised allocations policy in line with the housing and tenancy strategies
  - revised tenancy agreement in line with the allocations and tenancy policy
8. The council will work with its partners including registered providers, applicants, tenants and other relevant stakeholders to develop the strategies and policies listed above to ensure that they reflect local needs, the make-up of its stock and corporate strategic objectives.

## Annex A – Tenancy Policy

<b>POLICY</b>	<b>DRAFT Tenancy Policy</b>	
<b>DATE ISSUED:</b> April 2012	<b>REVIEW DATE:</b>	April 2013
<b>ISSUED BY:</b> Housing strategy		
<b>FURTHER INFORMATION AVAILABLE FROM:</b> Paul Swanborough, Strategic housing manager 01603 212388		
<b>PURPOSE OF POLICY</b>  The purpose of this policy is to set out how the council will use the new range of options that are available to them as a result of the Localism Act 2011 and the changes to the regulatory standards that all social landlords are expected to meet.  In addition, the policy clarifies how the council will support tenancy sustainment and prevent unnecessary eviction, tackle tenancy fraud and grant discretionary succession rights.  The policy is applicable to tenants of Norwich City Council.		
<b>AUTHORISATION</b>  It is anticipated that this policy will be authorised by Cabinet in March 2012.		
<b>CORPORATE OBJECTIVES</b>  The policy contributes to the corporate objectives of making Norwich a safe and clean city, with decent housing for all, and ensuring the Council provides value for money services.		
<b>CONTENTS</b>		
<ol style="list-style-type: none"><li>1. Introduction</li><li>2. Relevant legislation &amp; other sources</li><li>3. Tenancies – types granted, length of tenancy and rent charged</li><li>4. Housing exchanges</li><li>5. Tenancy reviews</li><li>6. Succession rights</li><li>7. Tenancy sustainment</li><li>8. Tenancy fraud</li><li>9. Policy review</li><li>10. Useful links</li></ol>		

## 1. INTRODUCTION

As part of the wider package of social housing reforms, the Government has introduced the requirement for all social landlords to publish a tenancy policy. The reforms include the introduction of fixed term tenancies and affordable rent, changes to allocations and homelessness and promotion of increased mobility for social tenants. These reforms are being implemented through the Localism Act and changes to the regulatory standards that all social landlords are expected to meet.

From April 2012, the Homes and Community Agency will replace the Tenants Services Authority as the social housing regulator. At this time a revised regulatory framework will be introduced along with a revised set of regulatory standards. It is the Tenure element of the revised Tenancy standard that states the requirement for all social housing providers to publish clear and accessible tenancy policies by April 2012.

The tenancy policy sets out:

- the kinds of tenancies that the council will offer, and at what rent
- the circumstances in which tenancies will be granted
- the length of tenancies granted
- the circumstances in which tenants can exchange their home
- the process for reviewing tenancies
- whether the council will grant discretionary succession rights, and if so to who
- interventions used to sustain tenancies
- the council's approach to tackling tenancy fraud
- how frequently the policy will be reviewed.

It should be noted that the requirement for social housing providers to publish a tenancy policy is different to the statutory requirement, under the Localism Act, for all local authorities to develop a tenancy strategy by January 2013.

The tenancy strategy will:

- be produced in consultation with registered providers
- set out high level objectives for Norwich that registered providers should 'have regard to' in their tenancy policies
- signpost people to where the registered providers', operating in Norwich, tenancy policies can be found, or summarise them
- have been developed in consideration to the local allocations policy and homelessness strategy and in consultation with registered providers
- be reviewed from time to time.

## 2. RELEVANT LEGISLATION & OTHER SOURCES

- **Localism Act 2011**
- **Housing Act 1996**
- **Housing Act 1985**
- **Tenancy Agreement 2010 edition**

### 3. TENANCIES

#### TYPES OF TENANCIES

The general rule is that local authorities can only grant secure tenancies. The major exception to this is that they can elect to operate an introductory tenancy scheme. Norwich City Council elected to do so in 2006.

**Introductory tenancies** Unless a new tenant (or one of them in case of joint tenancies) already has a secure tenancy (or another social housing equivalent to a secure tenancy, for example, an assured non short-hold tenancy), the tenancy is an introductory tenancy for a trial period. The trial period normally lasts one year, but may be extended. During the trial period tenants have less security and fewer rights. For example:

- Their home is at much higher risk of repossession if they do not keep to the tenancy agreement
- They cannot buy their home
- They cannot exchange homes with other tenants.

**Secure tenancies** If the trial period is successfully completed, tenants automatically become secure tenants. If they had a secure tenancy (or other social housing equivalent) immediately beforehand, they are secure tenants from the beginning of the tenancy. Secure tenants have the full set of tenancy rights, as set out in the council's tenancy agreement.

**Demoted tenancies** A secure tenancy may be ended by a court order for some kinds of antisocial behaviour and replaced with a demoted tenancy for a year. A demoted tenancy has less security and fewer rights. It is broadly like an introductory tenancy. It is a useful alternative to a suspended possession order in some cases.

**Non-secure tenancies** There are a few exceptional situations that operate outside the normal framework of introductory, secure (and occasionally demoted) tenancies. These tenancies enjoy even less security and protection and normally apply to short term accommodation. The most common of these exceptions is tenancies granted by the council under its homelessness functions.

It is important to appreciate that all the above tenancies operate according to statutory criteria. As is the case with most security of tenure legislation, the council cannot choose to set up an individual tenancy outside those criteria (however deserving the particular situation may appear to be and even if the tenant agrees).

**Joint tenancies** The tenancies listed above could be granted on a joint tenancy basis in the following circumstances:

- the proposed joint tenants are both eligible for housing as defined by legislation **and**
- where the proposed joint tenants are married or civil partners **or**
- where the proposed joint tenants live together and the relationship is an 'established' one i.e. evidence is produced showing they have lived together for at least 12 months prior to the joint tenancy application **or**
- where the proposed joint tenants are in a 'mutually supportive' and 'established' relationship.

The council will not normally grant a joint tenancy to a person who is entitled to succeed to that tenancy (e.g. mother and daughter) as this could compromise its ability to make the best use of its housing stock in the future.

In the context of deciding whether or not to grant joint tenancies the council has a free hand (in contrast to its lack of individual discretion about the type of tenancy). But it must, of course, act consistently and in accordance with its policy.

## **LENGTH OF TENANCY**

The general rule is that a tenancy carries on indefinitely, rather than for a fixed time. In legal terms, it is a weekly tenancy. It therefore continues running week-by-week (from first thing Monday to midnight Sunday), beginning with the date shown on the original tenancy sign-up sheet, until it ends. The tenancy may be ended as follows:

- by the tenant – notice to quit
- by the council – notice to quit (only if there is no security of tenure)
- by the council – court order
- by agreement – surrender

Section 14 of the council's Tenancy Agreement explains these circumstances in more detail. However it should be noted that the council may normally only seek to end a tenancy if the conditions of the tenancy agreement have not been adhered to, or in the case of death of a tenant. This is different to the ending of a fixed tenancy, which the council does not offer.



## RENTS

The council charges social rent on all of its tenancies. Rent levels are based on a combination of the value of the property and average earnings in Norfolk. Under government guidelines a 'target rent' has to be calculated up to the year 2012, with rents being adjusted annually until they reach the target rent.

The government's aim is for council rents to more closely match those charged by housing associations. As part of the changes, new service charges for some items, window cleaning and premises management and caretaking, for instance are shown as a separate weekly charge for the homes which benefit from these services. Other items may be added to the rent, for example, district heating charges and water rates.

## 4. HOUSING EXCHANGES

Tenants of Norwich City Council considering moving, if eligible, can exchange their home with another council tenant or housing association tenant.

This can be done by registering for FREE on the [House Exchange](#) website and searching for an exchange partner.

Once a tenant has found another tenant who would like to swap homes with them, a request must be made in writing to the council seeking permission to proceed with the exchange. The council will confirm within 42 days if the exchange can proceed.

Permission might not be given, for example:

- if you, or either of the tenants, has a Notice Seeking Possession and/or a court order against them - for example for arrears or anti-social behaviour
- if the exchange would mean that one or both homes would be either overcrowded or under occupied.

Sometimes there may be conditions to be fulfilled before permission is granted - for example, clearing any rent arrears or putting right any damage to the property.

The property will be inspected before any exchange and arrangements are made to test the electricity supply and fittings to ensure they are safe.

## 5. TENANCY REVIEWS

### Appraisals

During an introductory tenancy a tenant must allow the council to visit them in their home. This is so that the council can carry out appraisals of whether or not a tenant is successfully maintaining their tenancy during the trial period.

### Tenancy health checks

The council will carry out programmed and adhoc tenant health checks with the intention to visit each council property at least once every five years. This is to safeguard the tenant and their household members, and the property. It allows the council to:

- identify any support needs that a tenant may have
- update its records with any changes to a household's circumstances
- arrange repairs that are the council's responsibility which have not been reported
- signpost the tenant to other services as appropriate.

In all cases, the council will arrange the visit with the tenant who must be present for the appraisal or tenancy health check.

## 6. SUCCESSION RIGHTS

A tenant's succession rights are contained in the council's tenancy agreement, a link to which can be found in section 10. However, the general rule is that a tenant cannot pass their tenancy on to other people. When a tenant no longer needs their home, the council must re-let it in accordance to its allocation policy, a link to which can also be found in section 10. The exceptions to this general rule are:

- If a tenant dies during their tenancy and they are a joint tenant, the tenancy continues for the remaining tenant.
- If a tenant dies during their tenancy, they are the only tenant, and:
  - specified members of their family are in occupation of their home as their main residence
  - they have lived with the tenant for the required period of time
  - the tenant was neither a joint tenant originally nor somebody to whom a tenancy had been passed on to already,
 then the tenancy passes to one of those family members.
- A tenancy may therefore be passed on to a family member, but only once. The people who are specified as family members and the required period of residence (12 months) are set out in legislation:

- |               |          |                |
|---------------|----------|----------------|
| • Parent      | • Sister | • Half brother |
| • Grandparent | • Uncle  | • Half sister  |
| • Child       | • Aunt   | • Foster child |
| • Grandchild  | • Nephew |                |
| • Brother     | • Niece  |                |

The council may grant another introductory tenancy to somebody who does not have the right to succeed if the current allocation policy makes provision for such an allocation. At present this means where the person has enjoyed an established occupancy of the property, has a reasonable expectation of a property of that type and would be a suitable tenant.

## 7. TENANCY SUSTAINMENT

The council is committed to helping tenants to maintain their tenancy and offers a variety of ways support tenants in achieving a successful tenancy.

## **Tenancy awareness sessions**

These are appointment only sessions for people who have been referred by an agency, for example a hostel or supported lodging, and who are ready to take on a new tenancy.

The sessions cover:

- maintaining a tenancy
- housing and council tax benefit
- maximising income
- the importance of having and balancing a household budget
- priority payments
- the costs of credit.

At the end of each session, all attendees are issued with a certificate of attendance and an information pack. More information and a timetable of dates can be found on the council's [website](#).

## **Money advice service**

The council has a free, dedicated money advice team to help its tenants who fall into debt. A personal money adviser can meet tenants in their own home or at another convenient location to provide free and confidential advice about their financial situation, ranging from basic budgeting skills to intensive debt management.

For any advice or to make an appointment tenants should email the money advice team at [moneyadvisers@norwich.gov.uk](mailto:moneyadvisers@norwich.gov.uk), giving us as much information as possible about their current situation.

Tenants can also download a payment planner for the council's website [Payment planner](#)

## **Tenancy health checks**

The council will carry out programmed and adhoc tenant health checks with the intention to visit each council property at least once every five years. This is to safeguard the tenant and their household members, and the property. It allows the council to:

- identify any support needs that a tenant may have
- update its records with any changes to a household's circumstances
- arrange repairs that are the council's responsibility which have not been reported
- signpost the tenant to other services as appropriate.

## **Supporting tenancies**

Norwich City Council works in partnership with Stonham HomeStay to deliver a service in Norfolk which provides housing support to people who are homeless, at risk of losing their home, or who need help to settle into or set up their new home. Stonham HomeStay is a free and confidential service which supports people who are homeless, living with family or friends, renting, have a mortgage or own their home.

HomeStay can support tenants through:

- Relationship breakdown or bereavement,
- Moving into a new home.
- Debt problems, including mortgage and rent arrears.
- Homelessness or at risk of becoming homeless.
- Domestic abuse.
- Physical or mental health problems.
- Drug or alcohol problems.
- Loss of independence due to ill-health.

Issues that HomeStay can support include:

- Help to develop independent living skills.
- Budgeting and debt advice.
- Advice on benefits and welfare rights, including form filling.
- Help with settling into your home, including setting up your gas and electricity bills, etc.
- Help to understand your tenancy/mortgage responsibilities.
- Help with accessing other services in the community.
- Access to training and employment.
- Help to resolve neighbour disputes.
- Support during court, tribunal or appeal hearings

Support can be accessed by telephoning Stonham HomeStay on 0845 155 0390 (local rate) or via their website: [www.stonhamhomestay.org.uk/norfolk](http://www.stonhamhomestay.org.uk/norfolk)

### **Families Unit**

The council has a Families unit which provides intensive tenancy support to families that may be at risk of losing their tenancy through antisocial behaviour. The unit works in partnership with other agencies including Children's Services, health services and Norfolk police.

### **Housing Advice**

The council offers specialist advice services which provide help with issues like welfare rights or housing issues via its housing advisors in the housing options team.

## **Independent Living**

The council is committed to helping its tenants to live independently in their homes. Norwich Community Alarm Service (NCAS) provides a 24-hour, year round monitoring and response service for people considered vulnerable or at risk in the community. There are no age restrictions. Although a large number of people who use the service are elderly or disabled, the council provides services to cover situations like domestic violence, racial harassment or neighbourhood nuisance. There is a charge for this service.

The council will carry out disabled adaptations and improvements to enable access around a tenant's home or garden. Aids and adaptations may include grab rails, ramps, stair lifts or a walk-in shower. The most appropriate solution will be determined in conjunction with the council's occupational therapist.

The council's garden maintenance scheme is available to elderly and vulnerable council tenants who are unable to maintain their gardens due to physical or mental health issues, a disability or long term illness. There is a small charge for this service.

More information can be found on the council's website or by contacting the council.

## **Being a good neighbour**

The council takes antisocial behaviour very seriously and recognises the importance of different agencies working together to tackle it. We work with agencies such as the police, social services, victim support, youth offending team, the health service, schools, neighbourhood watch schemes, drug action teams and the probation service.

Prevention is an essential part of the council's approach to dealing with antisocial behaviour. The council is committed to making tenancies as trouble free and enjoyable as possible so expects tenants to play their part in keeping to their tenancy agreement and being a good neighbour. The council's current tenancy agreement, lease or deed of covenant sets out certain conditions. Please refer to these for further information.

The council, in partnership with other housing providers, funds a mediation service which can help people who are finding it difficult to resolve a dispute with a neighbour. This can include problems with antisocial behaviour like noise or verbal abuse. This is a confidential service designed to help people reach an agreement and improve relationships. The service can be accessed by contacting the council.

## **Other information**

The council also provides other information aimed at helping tenants with a wide range of matters that will help them to maintain their tenancy, all of which can be accessed via the council's website and offices. These include:

- [Every penny counts](#)
- [Top tips for a successful tenancy](#)
- [A tenant's guide on how we deal with antisocial behaviour](#)

- [Housing information leaflets](#)

Much of this information is contained in the Tenant's handbook which is issued to new tenants when they sign up to a tenancy with the council.

## 8. TENANCY FRAUD

The council has a tenancy fraud policy which defines what the council regards as housing fraud, what it will do to prevent it, and what actions will be taken where housing fraud is identified. This forms part of the corporate anti fraud policy which underpins the council's corporate anti-fraud and corruption strategy.

### Commitment

The council's policy on tenancy fraud states its commitment to tackling housing fraud by detailing what measures it will take to prevent it, and the appropriate actions it will take to ensure that housing stock is only occupied by those with a legal right to be in residence.

1. Partnership – we will work in partnership to tackle reports of tenancy fraud with other council departments and external agencies.
2. Communication – where appropriate, we will publicise cases of tenancy fraud.
3. Prevention – we will identify opportunities to prevent tenancy fraud.
4. Enforcement – we will take enforcement action to stop tenancy fraud and to ensure social housing is being used for its intended purpose.
5. Performance – we will look at ways to continually improve our performance on tackling tenancy fraud.

### Prevention

The council recognises the importance of different departments and agencies working together to tackle housing fraud. It uses a number of key methods when trying to prevent housing fraud. These include:

1. Annual fraud awareness training to improve knowledge and understanding, and produce the best quality referrals, provided to:
  - neighbourhood housing officers
  - income management team
  - anti-social behaviour and tenancy enforcement (ABATE) team
  - sheltered housing team
  - housing options
  - families unit
  - housing property services surveyors
  - customer contact advisors
  - revenues and benefits officers
2. The use of data analytics and credit reference agency checks to prevent fraud.
3. Working closely with other partners and sharing information appropriately.

4. Carrying out rigorous checks at registration and allocation stage including photographic ID.
5. The introduction of photographing new tenants at sign up to eliminate ID abuse and misrepresentation.
6. Ensuring that new tenants are made fully aware of their responsibilities under the current tenancy agreement.
7. Ensuring appraisals visits are carried out for all new introductory tenancies.
8. Programmed and ad hoc tenancy health checks with the intention to visit each council property at least once every five years.
9. Actively investigating all reports and complaints of tenancy fraud to establish the facts and taking action where appropriate. To facilitate reporting the council has a freephone number fraud hotline and a fraud reporting form on the council's website. The council may also publicise national fraud hotlines as part of specific fraud drives.
10. Carrying out proper investigations when problems gaining access to a property occur, for example to carry out gas safety checks, essential repairs or tenancy health checks.
11. Publicising cases of proven tenancy fraud.
12. Continually reviewing and implementing best practice.

### **Principles and standards**

The council will apply a variety of principles and standards when dealing with tenancy fraud problems. However, the most important thing is to recover properties and ensure that social housing is being used for its intended purpose.

1. The council will respond promptly to reports of tenancy fraud.
2. All reports of tenancy fraud will be taken seriously and clearly documented with an accurate record of contacts, investigations and actions taken.
3. All appropriate investigations will be conducted professionally and to the required level of thoroughness and detail to establish relevant facts and enable a solution to be identified.
4. Complainants will have their identity kept confidential unless they agree to have it disclosed. Where this could have implications for the type of action the council is able to take, this will be discussed with the person concerned.
5. All persons who are the subject of an investigation into suspected housing tenancy fraud will be treated fairly and courteously at all times.

6. The council will consider publicising cases of proven tenancy fraud.
7. The council will treat each case as being unique and deal with it on the basis of the circumstances of that case. Action taken will be proportionate and appropriate, rather than a “one size fits all” approach.

### **Enforcement**

All reports or possible occurrences of fraudulent abuse detailed in the council’s tenancy fraud policy will be investigated by the council, in conjunction with its partners where appropriate, based on the principles and standards outlined above. The council has a policy of zero tolerance towards fraudulent activities.

## **9. POLICY REVIEW**

The tenancy policy will be reviewed on every year. Where there are proposed changes to the policy, approval will be sought from Cabinet.

## **10. USEFUL LINKS**

[Tenancy agreement](#)

[Allocations policy](#)

[Norwich City Council website - housing](#)