

Introduction

The Localism Act requires a local authority to publish a Tenancy Strategy by 15th January 2013. It must cover:

- (a) The kinds of tenancies they grant,
- (b) The circumstances in which they will grant a tenancy of a particular kind,
- (c) Where they grant tenancies for a certain term, the lengths of the terms, and
- (d) The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

This document is in 2 parts:

- The Newham tenancy strategy Part 1 aimed principally at the registered provider sector
- The Newham tenancy strategy Part 2 more focussed more on Council tenancies and of more interest to the wider public. This proposes the introduction of fixed term tenancies (FTT) which are also known as flexible tenancies.

Both should be considered together to discharge Newham's legal duty under the Localism Act 2011 to publish a Tenancy Strategy.

Tenancy Strategy Part 1

Introduction

The London Borough of Newham has a strong vision for the future of our borough based on building the personal, community and economic resilience of our residents. The work of the Council, and of our partners, will be focused on ensuring residents have the capacity and skills to lead independent and fulfilled lives. For full details of the Newham Resilience agenda see <http://www.newham.gov.uk/YourCouncil/Buildingastrongcommunity.htm>

This tenancy strategy explains how the London Borough of Newham will use its social housing to build a resilient community and build the personal resilience of our residents. We want to work with housing partners in the borough to ensure there is a consistent approach across the borough based on this vision as well as creating a simple and clear message to our residents.

Housing is an important part of building a resilient community and helping residents to fulfil their potential. We want to stabilise our community and create a place where people know their neighbours and can turn to each other for support and guidance. To build personal resilience we are also keen to ensure that housing supports residents on low incomes and encourages aspiration.

Allocations

The Council's vision is to create genuinely mixed neighbourhoods in order to facilitate connections between residents. We want to create a culture where employment and contribution is the norm, and children and young people are living around positive role models. We also want to support residents working on a low income by giving them some access to social rents. This might help them to save money for example, and will reward their effort, creating a "something for something" culture.

The revised housing allocations policy in Newham, to be implemented from 29th October 2012, will give some priority to residents in employment or contributing in other ways, for example through carer duties or ex-service personnel, whilst still recognising housing need through reasonable preference. So an employed resident with reasonable preference will be given priority over an unemployed resident with reasonable preference.

We define someone as employed if they are currently in paid employment for 16 hours a week or more, and have been in employment for any nine months out of the last 12 months, or are recognised fulltime carers – in receipt of Carers' Allowance except where the carer is unable to receive Carers Allowance due to their age or other benefits. We will also give priority to a disabled person below retirement age if they have passed the governments' ESA test and get the support element of ESA.

The Tenancy Strategy has been informed by the revision to the Allocations Policy. The Council considers the two will operate as part of the Council's holistic approach to managing its housing stock and discharging its statutory duties.

Fixed Term tenancies

Newham will introduce fixed term tenancies (FTT) with a minimum of five years in order to enhance our ability to deal with issues such as anti-social behaviour and ensure that there is fair access to social housing in the borough. However, we are also clear that we want to create and maintain stable neighbourhoods where residents know and support each other. As such we will not move people out of their social home when their circumstances improve but encourage them to stay in their home in order to continue to be part of a mixed and settled community. In this way we will be showing residents we support them in improving their circumstances. We are expecting registered providers to use fixed term tenancies to achieve the same aims.

Older people living in sheltered accommodation will be granted a lifetime tenancy (including an introductory tenancy in the first year) in recognition that they are living in specialist accommodation. All other tenants will receive a five year tenancy with a review at the end of five years.

The review at the end of five years will ascertain whether a tenant has been involved in anti-social behaviour, now owns a property, has been sub-letting the property or has in some way breached the terms and conditions of their

fixed term tenancy. These are the circumstances under which a tenancy may not be re-granted. We are expecting registered providers to use the same conditions when considering if a tenancy will be renewed.

Newham will not apply income thresholds in deciding whether to allow a tenant at the end of the fixed term to default to a lifetime tenancy.

“Something for something”

For Newham tenants only - if Newham's fixed terms tenants successfully complete the first 5 years fixed term we will then allow them to become a lifetime tenant, assuming there have not been breaches of the tenancy or other acts (details are set out below) where Newham will seek possession.

Introductory Tenancies

The five year term of the fixed term tenancy will be made up of a one year Introductory Tenancy and four years of the fixed term tenancy. In circumstances where the Introductory Tenancy is extended by say six months the following fixed term will be shortened to three and a half years to make five years in total. Registered providers grant starter tenancies for the first 12 months to tenants new to the social housing sector. Newham Council will not expect a current registered provider tenant to have an Introductory if they transfer to the Council.

Underoccupation

It is Newham's view the most appropriate way of tackling underoccupation in the current policy of offering incentives to move to more appropriately sized accommodation. However the Government's welfare reforms programme (and the so-called bedroom tax) is being implemented for working age council tenants from 2013 and Newham accepts there will be financial disincentives for people to stay as under-occupiers. The Council will monitor how this develops and adjust its policies accordingly. It will continue to pay financial incentives to under-occupiers to encourage them to give up family-sized homes.

Current secure and assured tenants

Any current Newham tenant with a lifetime tenancy will get another lifetime secure tenancy on transfer.

Any housing association or registered provider tenant currently on an assured tenancy (equivalent to a secure or lifetime tenancy) moving to a Newham tenancy on a transfer will be granted a secure lifetime tenancy by Newham, not a fixed term.

Newham expects RPs to honour the lifetime tenancies of Newham tenants signed up from 1.4.2012 to the implementation of this policy, moving or transferring into the RPs stock and grant old style assured tenancies, not at affordable rent unless the tenant has explicitly chosen an affordable rent property. This is in addition to the statutory protection to lifetime tenants commencing a Newham council tenancy prior to 1.4.2012.

Mobility moves

Newham is a member of the GLA scheme “Housing Moves” which assists social tenants to move between landlords and boroughs. Newham will support the principles behind mobility in its tenancy strategy. We are a party to GLA getting a 10% top slice of social rent homes on the Olympic Village, for example, in support of our wider employment objectives.

Conclusion

In summary Newham’s Tenancy Strategy says that new tenants will get a five year fixed term. Provided there are no breaches of tenancy Newham will grant a lifetime tenancy at the expiry of the fixed term tenancy. Lifetime tenancies will also go to:

- New sheltered housing tenants (including an introductory tenancy in the first year)
- Mutual exchanges where this is a statutory transfer under the Localism Act 2011.
- Existing council tenants who do a transfer under the allocations policy
- Lifetime RP tenants who transfer into the Newham housing stock

Newham expects registered providers to echo these tenancy policies.

Tenancy Strategy Part 2

Newham is also drafting a Tenancy Strategy Part 2 to complement the tenancy strategy Part 1 above, which is a document primarily covering the introduction of fixed term tenancies (FTT - also known as flexible tenancies) of five years for most new council tenants from 1st April 2013.

The Council’s position on fixed term tenancies

All new Newham tenants will be granted fixed term tenancies which will start with an Introductory Tenancy. These will still apply for the first year so the tenancy will strictly be 1 year introductory tenancy + 4 year fixed term tenancy = 5 years. The only exceptions will be where:

- The Introductory is extended by 6 months in which case the remainder would be 3.5 years fixed again giving a total of five years.
- The tenant has already had an RP tenancy in which case there would be no Introductory Tenancy but a five year fixed term.

Process in summary

The tenancy contract sign up for the fixed term element will be on day one of the Introductory Tenancy so the Council does not have to go through another sign up process at the start of the fixed term. The tenant will receive a notice explaining that when the introductory tenancy comes to an end the tenancy will be a fixed term tenancy for the remaining 4 years.

The law requires that the Council serve a notice before the tenancy starts, explaining the tenant has a right to a review of the term of the tenancy. This notice will go out with the Viewing Letter, issued by Newham Council's Lettings Agency and the period in which the review can be requested will start on the day the tenancy is offered.

The only ground for review is that the Council has departed from its Tenancy Strategy in offering a term that is not consistent with the policy. Newham Council will offer 5 years fixed term except for sheltered housing where the Council will offer lifetime secure tenancies. On transfers by Council tenants, the principle is that their new tenancy will be on no worse terms, subject to the law at that time.

The review needs to be carried out by a senior officer not involved in the decision to offer an FTT. The applicant has the right to opt for an oral hearing, to be represented if he or she chooses and written notice of the hearing.

What happens at the end of the FTT?

At the end of the Flexible Tenancy the Council proposes either to:

- (a) Refuse to grant the tenant a new tenancy and seek possession of the property. If this happens, the Council will serve notice (not less than 6 months before the tenancy comes to an end) giving the tenant reasons why it will not grant a new tenancy. The tenant will have the right of an appeal against that decision. If the appeal is unsuccessful the Council will serve a further 2 months' seeking possession of the property. OR
- (b) Allow the tenant to continue to live at the property as a secure lifetime tenant after the Flexible Tenancy ends as long as the tenant has complied with all the tenancy conditions and rules

The Council will not allow a fixed term tenant to become a lifetime secure tenant, and will seek possession of the property in the following instances:

- where there has been serious and/or persistent breaking of tenancy conditions
- where there has been serious rent arrears or persistent failure to pay rent or charges on time
- where there has been serious or persistent antisocial behaviour
- where the home has been used for illegal and/or immoral purposes e.g. a brothel, a crack house
- where the tenant has allowed the property to fall into bad repair through neglect or wilful damage
- where there has been unlawful occupation / subletting without the Council's consent
- where the tenant has abandoned the property and is living somewhere else
- where the tenant is not using the property as their only or principal home

- where the tenant has caused domestic violence against their partner or another member of the household the tenancy is unlikely to be extended to a lifetime tenancy

Another instance in which the Council will not offer a new tenancy and will seek possession of the property is:-

- where the tenant has been entitled to a fixed term tenancy as a foster parent for Newham but the tenant has stopped fostering for the Council.

Where tenants have committed a minor breach of tenancy they must remedy the breach before Newham will offer a new tenancy. This would include for example:

- clearing any outstanding low level rent arrears or other debts owed to Newham not already covered by a formal agreement with Newham
- undertaking any repairs that are the tenant's own responsibility
- allowing access for a gas safety or electrical safety check

The Council will ensure that communications with tenants during the fixed term about tenancy breaches (whether it is about pets causing problems; gardens being not kept to a good standard; rent arrears) include a warning that breaches of the tenancy agreement could prejudice or affect the tenant's chances of being allowed to remain in their home at the end of the fixed term

The Council reserves the right not to offer a further tenancy where a tenant or a member of their household has been convicted of an offence and served a custodial sentence.

Council tenancy terms and conditions

The council will draft new terms and conditions for Fixed Term Tenancies or FTT. These will, except for a few necessary adaptations to deal with termination clauses and notice periods, be substantially the same as the tenancy terms and conditions which govern the existing lifetime tenancies.

Notice from tenant during fixed term

A tenant can serve a 28 day notice to leave a FTT. For administrative reasons, Newham will add a requirement that such notice must end on a Monday or the Council will charge from the 28th day up to the next Monday, (or if they give vacant possession the Council have discretion to accept less than 28 days notice.)

Mutual exchanges /Assignment

FTT will include the right similar to the existing mutual exchange. The Localism Act 2011 contains a specific right for a tenant with a lifetime tenancy (secure or assured) to take this form of tenancy with them on exchange. The lifetime tenant gets a lifetime tenancy and the tenant who was previously on a

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fixed terms tenancy will be offered a further fixed term tenancy. This protection only applies to existing tenants granted secure/assured tenancies before 1st April 2012.

Ends