MINUTES OF FIXED-TERM TENANCIES TASK GROUP

6 MARCH 2014

PRESENT:

Councillors Mrs Garcia (Chairman), Coles, Hazelton, Mahoney, Mrs Parker and Ms Robbins

Steven Shanahan (Head of Housing), Emma Haile (Estates Management Team Leader), Debbie Dawson (Scrutiny Officer) and Veronika Beckova (Democratic and Scrutiny Services Officer)

Ms Tracey Nuttall (co-opted member from Tenant Representative Panel)

12. APOLOGIES

Apologies for absence from the meeting were received from Councillor Helen Walton and Liz Dunlop (Operational Housing Manager).

13. FIXED-TERM TENANCIES – CONSIDERATION OF ADDITIONAL EVIDENCE

The task group considered a report by the Scrutiny Officer including:

- evidence from Kettering Borough Council and High Peak Borough Council on their responses to the new provisions in the Localism Act for local authorities to offer fixed-term tenancies;
- a briefing on the ‘Pay to Stay’ policy;
- details of the legal position on whether fixed-term tenancies are discrete tenancies and what mitigations could be put in place with regard to rent arrears if this is the case; and
- further information on the potential cost of evictions (as available) and details of the proportion of those tenants not in receipt of housing benefit who are over 65 years of age.

The Head of Housing and the Estates Management Team Leader attended the meeting to answer questions.

Further to the report the following points were made:

‘Pay to Stay’ Policy

This national policy is still in a gestation stage and there is current uncertainty about the detail. If it was to be introduced, it would not be until 2015 at the earliest. It seemed likely that it would be the responsibility of the tenant to declare their income level. Some members saw this as potentially problematic.

Members asked why the income level of £60,000 had been chosen. Officers advised that this was the lowest figure that had been suggested by government. The amount referred to a household’s income, though a maximum of two incomes would be taken into account.
Members suggested that the policy could be revisited at a future Housing Member Conversation when the final policy details had been determined.

**Legal advice on fixed term tenancy policy**

Members considered confidential legal advice issued to the council regarding the status of fixed term tenancies. It was advised that each fixed term tenancy would be a new tenancy in law and that rent arrears could not therefore be transferred to the new tenancy.

It would be possible for the council to require a payment plan to be in place as a condition of the tenancy, but officers advised that – based on current experience – the likelihood of recovering payments in such circumstances would be slim. Tenants would always be advised to prioritise their current bills over arrears payments to avoid eviction. Small arrears are dealt with by the council on a daily basis and currently around 30% of tenants are in arrears.

Officers advised that, currently, decisions about whether to re-let to a tenant with existing arrears were made on an individual basis, taking into account the amount of arrears and the length of time a tenant had been in arrears. Each case was different and it was difficult to define a blanket policy. For example, a tenant that had been made redundant could quickly accumulate fairly significant arrears if they failed to make a month’s rent payment on time, but the situation could be quickly resolved when they found new employment.

It was noted that, if fixed-term tenancies were introduced, members would be able to determine the detail of the policy locally – for example whether the policy would apply to tenants above a certain age or whether having an arrangement to clear arrears over time would be stated as a condition in the new contract.

The new policy would not affect tenants already in secure tenancies. Sheltered housing (approximately 1/3 of the stock) would also not be affected.

**Evictions**

Under secure tenancies, tenants can:

- vacate the property voluntarily;
- be evicted when in breach of the tenancy agreement; and
- be evicted by the Court.

The eviction process typically took three months, but the council had previously taken some cases to Court and had waited a further three to four months for a bailiff date.

**Alternative approaches**

The Scrutiny Officer reminded members of some of the main arguments in favour of fixed-term tenancies and the concerns that had been articulated during the course of the review, both by task group members and other local authorities in the evidence considered.

Officers also advised members that there were a number of alternative approaches that could be considered that may deliver some of the policy aims of fixed-term tenancies.
For example, the social housing under-occupancy was already helping to encourage better use of council housing and the ‘pay to stay’ had the potential to address the issue of fairness.

The Head of Housing advised members that officers could also look to identify the tenants most likely to be able to afford alternative housing options and train housing officers to discuss different options available to tenants. This would include discussion of:

- ‘Right to Buy’
- Shared ownership and other forms of tenure
- Tenant incentive schemes (which officers were already researching)

Housing Services have been undertaking an end-to-end review of the rents process, which had picked up several issues. As part of this, the Estates Management Team Leader informed the members about a new initiative that the council was exploring called the Rental Exchange, which was being delivered by Big Issue Invest and Experian. The Rental Exchange was a secure way to include a tenant’s payment history in their credit file and share rental data to enable social housing tenants’ to build a positive credit history and create an ‘online’ proof of identity. This would enable council tenants who pay their rent regularly to access more mainstream credit. Rental Exchange would provide the council with information about tenants’ credit status, but not their income levels.

Conclusions

In summarising the findings of the task group, it was argued by members that there is a clear view from the public that social housing should be allocated fairly. It was important to keep in mind that people’s personal circumstances change constantly. It was also likely that there would be an increasing expectation that social housing tenants should pay a higher rent if they were able.

A member commented that mortgage interest rates were likely to rise to 6-8% in the medium-term and that this would have an impact on the private rented sector. There were a large number of buy-to-let properties in the new developments in the borough and an interest rate increase may prompt landlords to sell their property, which could result in displaced tenants. This may have an impact on the Council’s housing services.

In conclusion, it was felt that the evidence indicated that, at the present time, the costs to the council of introducing fixed term tenancies are higher than the likely benefits.

14. NEXT STEPS AND PROGRAMME OF WORK

The task group agreed that to recommend that fixed-term tenancies should not be introduced by the council at this time, but that the tenancy policy should be reviewed again at the end of 2015.

At that time, members would be able to consider:

- evidence about the impact of fixed-term tenancies where they have been introduced by other authorities (ie. costs of reviews and what additional housing capacity has been delivered);
- the profile of the private rented sector in Rugby and the impact of any increase in interest rates and the consequent level of housing need;
figures relating to the loss of council’s housing stock through the ‘Right to Buy’ policy as well as numbers of any new-builds within the housing stock;

- details of the impact of encouraging tenants to consider alternative housing options and incentives; and

- details of any emerging case law relating to fixed-term tenancies.

The draft review report will be circulated to the task group for comments via email by the Scrutiny Officer. The report will then be submitted to the next meeting of the Customer and Partnerships Committee on 3 April and to Cabinet on 9 June.

The task group placed on record their thanks to the officers involved in the review so far and Ms Tracey Nuttall, the co-opted member from the Tenant Representative Panel.