

Strategic Tenancy Policy

Dacorum Borough Council



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Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper

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1. Introduction, background information and summary

- 1.1 The Council has a statutory duty under Section 150 of the Localism Act 2011 to produce a Tenancy Strategy which outlines the Council's policy on the new rents and tenures introduced by Central Government. The Council's Strategic Tenancy Policy (STP) will meet this responsibility and will apply to all Council owned stock, as well as being a consideration for Housing Associations (Housing Associations are referred to as Registered Providers in the STP) with housing stock in the Borough.

Flexible Tenancies and Affordable Rent

- 1.2 Flexible Tenancies and Affordable Rent are two major tenancy reforms introduced in the Localism Act 2011, and which providers of Affordable Housing may choose to adopt (Affordable Housing includes all types of Council and Registered Provider homes). Government policy promotes these reforms as necessary in the light of reduced availability of grant funding and a national shortage of Affordable Housing.
- 1.3 **Flexible Tenancies** are a new type of tenancy, which providers of Affordable Housing may now offer to new tenants (existing tenants with Assured or Secure Tenancies (Lifetime Tenancies) will not be affected). The legislation requires Flexible Tenancies to provide a minimum fixed term of two years, while providers may choose on the maximum fixed term they wish to adopt and to whom this will apply. At the end of the fixed term period a review process will determine whether a tenancy is re-issued or not.
- 1.4 Dacorum Borough Council will use Flexible Tenancies with a fixed term period of five years for most new allocations to Council properties. This approach has been adopted because Flexible Tenancies provide the Council with greater flexibility to optimise the use of its stock and to prioritise housing need.
- 1.5 **Affordable Rent** is a new rent model, which permits providers of Affordable Housing to charge rents at up to 80% of market rent levels. Affordable Rent is significantly higher than the current Social Rent level, which has been the main rent set by Central Government for some time. Landlords choosing to charge Affordable Rents are required in the legislation to use the increased rental income to build more Affordable Homes.
- 1.6 Dacorum Borough Council is adopting the potential to charge Affordable Rents on its new build properties and a proportion of its existing stock. The Council recognises that Affordable Rent will provide necessary income to fund the construction of new Affordable Homes under the current funding system run by the Government's Homes and Communities Agency. Some Registered Providers in the Borough are already developing Affordable Rent properties and the Council adopted the potential to do so under its own new build program. Affordable Rent can be affordable for households in housing need and is within the limits and caps set by Central Government on claimants of Housing Benefit. The Council believes that this new

rent level will be accessible to all potential tenants and that it is in line with the Council's Housing Principles.

Who does the Strategic Tenancy Policy affect?

- 1.7 The STP will not affect existing tenants.
- 1.8 For **existing tenants** with Lifetime Tenancies the legislation does not permit providers of Affordable Housing to either, change the tenure to Flexible Tenancies, or move tenants to the new Affordable Rent model.
- 1.9 Affordable Housing providers may however choose whether they wish to change the tenure or rent level in the case that existing tenants **transfer** properties. Dacorum Borough Council has decided to protect the tenancies of transferring tenants if they choose to move within Council accommodation. Transferring tenants with an existing Lifetime Tenancy will therefore keep their Lifetime Tenancy if they choose to transfer to a property within the Council's own stock. As well as providing existing tenants with peace of mind, this will contribute to achieving the best use of stock as current tenants will feel able to move (enabling their properties to be re-let) without worrying about either losing their Lifetime Tenancy or seeing their rent level go up.
- 1.10 The STP primarily affects **new allocations** of homes to home-seekers and homeless applicants on the Council's Housing Register.

What are the key parts of the Strategic Tenancy Policy?

- 1.11 The two main aspects of the STP are:
 - The Council is proposing to begin using five year Flexible Tenancies for new tenants; and
 - The Council may raise a small number of rents in accordance with the Affordable Rent model.
- 1.12 The Council will protect existing tenants by ensuring that the tenancies and rent levels of existing tenants are not changed, even in the case that a tenant opts to transfer to a different property within the Council's own stock. Lifetime Tenancies at current Social Rent levels will therefore be retained by existing tenants.
- 1.13 Lifetime Tenancies will also continue to be used for all allocations to Sheltered Housing properties (supported housing for older people).
- 1.14 The Council cannot control the tenancy decisions of its partner Registered Providers and the Council accepts that Registered Providers operating in the Borough will use Flexible Tenancies and bring in Affordable Rents for some of their properties in accordance with their own policies. However, in the interests of partnership working and the residents of Dacorum, the Council expects all Registered Providers with landlord responsibilities in the Borough to consider the Council's proposals carefully.

Why has the Council taken these decisions?

- 1.15 The STP has been developed to provide as much security for prospective tenants as possible, while also aiding the Council to maximise the use of Affordable Housing stock, which will be achieved by:
- Providing appropriate housing to those most in need;
 - Using greater flexibility in the management of stock; and
 - Supporting the funding of the development of future Affordable Homes.
- 1.16 The STP takes into account Government policy and guidance, the Council's statutory obligations, best practice examples from other Local Authorities, the views of partner Registered Providers, and the Council's own Housing Principles and Corporate Priorities.
- 1.17 Central Government has made it clear that Flexible Tenancies are part of the approach that Local Authorities should adopt in the provision of Affordable Housing. Flexible Tenancies will be used in the Borough by both the Council and its partner Registered Providers. With a fixed term of five years Flexible Tenancies will provide a good level of security for households not able to access market housing who are in housing need.
- 1.18 The impact of the STP proposals will, in the main, not occur before tenants with Flexible Tenancies come up to their first review (12 months before the end of the fixed term period, and four years from the conversion date of a new tenant's Introductory/Starter Tenancy to a Flexible Tenancy). The Council will work closely with its Landlord Team and Registered Provider partners as this occurs to monitor outcomes.
- 1.19 The Council expects that the Flexible Tenancy review process will cause only a very small number of tenants to lose their tenancies. **The Council is proposing to automatically renew a Flexible Tenancy in the case that a tenant's circumstances have not changed.** The majority of tenants are expected to have their tenancies renewed. Evidence from research carried out by Family Mosaic Housing Association found that only 10% of households were in a position to move out of Affordable Housing five years into an existing tenancy¹.
- 1.20 Dacorum Borough Council is committed to meeting tenants' housing needs and providing the right level of housing assistance. Any tenant still in need of Affordable Housing at the time of the review will either:
- Have their Flexible Tenancy renewed for a further five years for the property they currently occupy; or
 - Be provided with another tenancy on a different property more appropriate for their needs (for example, in the case of a change in bed-space requirements).

¹Changing Direction: Should Social Housing be a hand up or a handout – Family Mosaic, October 2011.

- 1.21 New Affordable Rent properties have started to be developed in the Borough and the Council accepts that this is one of the new ways to deliver Affordable Homes within the Government's current funding system. The new rent levels under this model can be affordable and at the current time fall within the limits and caps affecting claimants of Housing Benefit. Affordable Rents will not be applied retrospectively to existing tenants, and through the Choice Based Lettings (CBL) scheme new applicants will be able to see the rent levels set for different properties and make their own decision about whether or not to bid for those properties with an Affordable Rent. The vast majority of the Council's housing stock will remain at current Social Rent levels.
- 1.22 The proposed approach will support the Council to provide the greatest numbers of good quality Affordable Homes as possible, while ensuring that these are allocated to those who are in greatest housing need in a fair and transparent way.

Who was asked about these changes?

- 1.23 A period of consultation on the STP ran during August and September 2012. The Consultation was advertised widely and gathered the views of the community, key partners and stakeholders to feed into the STP.
- 1.24 The Council has a statutory duty to consult with Registered Providers who were consulted as part of the process. The wider public, existing tenants, and new home-seekers on the Housing Register were also targeted as part of the consultation.
- 1.25 The responses from the consultation were weighed up against other considerations, including Dacorum Borough Council's statutory responsibilities, Government guidance, and other Council policy considerations.

Allocations Policy review and Strategic Tenancy Policy adoption

- 1.26 The Council will not let stock at Affordable Rents or Flexible Tenancies until the STP has been adopted by Cabinet.
- 1.27 The detail about how properties are allocated is contained within the Housing Allocations Policy. The Council's Housing Allocations Policy is currently under review and will be completed and ready for adoption in April 2013.
- 1.28 The existing Housing Allocations Policy does not exclude the letting of Affordable Rent and Flexible Tenancy properties if the Council's Registered Provider partners bring them forward before the Housing Allocations Policy review has been completed.

- 1.29 Registered Providers are advised to speak to the Council's Strategic Housing Team about their Tenancy Strategies before they look to advertise their properties through Moving with Dacorum. In addition, the Flexible Tenancy terms set by Registered Providers must be provided to the Council so that they can be advertised to prospective tenants.

Housing Principles and Policy Framework

- 1.30 The proposed approach laid out in this document is designed to meet Dacorum Borough Council's Housing Principles as well as the Council's statutory obligations.

1.31 Dacorum Borough Council Key Housing Principles

There are four key principles that feed in to Dacorum Borough Council's Core Policies. These principles are reflected throughout the Housing Policy Framework:

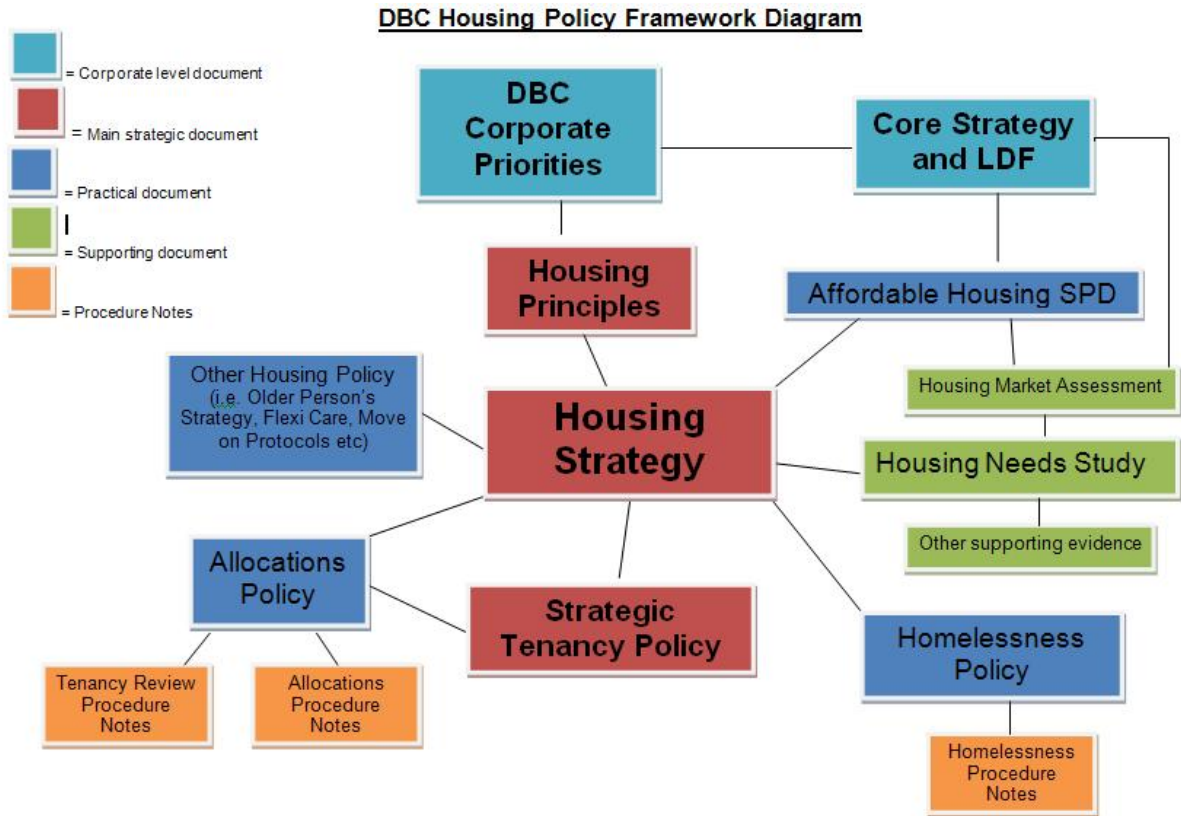
- The Council will give priority to those in Housing Need
- The Council will maximise the use of our housing stock to meet local priorities
- The Council will seek to increase the delivery of Affordable Housing in the borough
- The Council will ensure that its policies are designed to continue promoting cohesive and sustainable neighbourhoods.

1.32 Further Housing Principles

More specific Housing Principles have also been developed, which have more specific targets and seek to build upon the direction in the Council's Core Priorities and the Key Housing Principles. The Further Housing Principles are to:

- Give priority to households in the greatest Housing Need when allocating Affordable Housing
- Aim to maximise the use of our housing stock in order to meet Housing Need
- Give preference to local people where possible when allocating housing
- Meet our Affordable Housing delivery targets by:
 - Working closely with our Registered Provider partners, developers and internal colleagues
 - Develop our own council owned housing delivery programme
- Engage with the community and partner organisations on housing issues and policy
- Work with the local Private Sector in Housing, including the Private Rented Sector
- Ensure that due consideration is given to any vulnerable client groups.
- Give consideration to environmental sustainability issues within the borough's existing and prospective housing stock and attempt to promote sustainability best practice

Housing Policy Framework



2. Dacorum Borough Council Strategic Tenancy Policy

2.1 The key policy points relevant to the Borough are highlighted in the green boxes.

Flexible Tenancies

2.2 Flexible Tenancies must be set for a minimum fixed term of two years. They **will not affect existing tenants**, who will remain on their current tenancies.

- *Dacorum Borough Council will issue five year Flexible Tenancies on general needs stock from 1st April 2013.*
- *Dacorum Borough Council expects local Registered Providers to let the majority of their properties on five year Flexible Tenancies from 1st April 2013.*

2.3 The Government expects Flexible Tenancies to be adopted by Local Authorities across the country. Flexible Tenancies are supported by the Council for a number of reasons, as it is considered that this tenure will:

- Aid the management of Affordable Housing stock;
- Permit a more flexible use of stock;
- Prioritise those in housing need; and
- Allow Affordable Housing providers operating in the Borough to respond to a range of potential policy and legislative changes from Central Government.

2.4 The majority of Local Authorities and Registered Providers are choosing to adopt Flexible Tenancies with a fixed term period of five years, which is in line with guidelines that have come from Central Government. A five year fixed term is considered to best provide benefits both to Affordable Housing providers in terms of tenancy management and meeting housing need, and to tenants in terms of security.

Introductory Tenancies

2.5 Dacorum Borough Council has used one year Introductory Tenancies since 2002.

- *Dacorum Borough Council will continue to issue one year Introductory Tenancies. On completion of a one year Introductory Tenancy tenants will automatically be issued with a five year Flexible Tenancy.*
- *Many Registered Providers operating in the Borough use one year Starter Tenancies, which operate in the same way as Introductory Tenancies. For use with Flexible Tenancies these will also be converted at the completion of the one year period.*

- 2.6 Introductory Tenancies (known as Starter Tenancies for Registered Providers) are considered to be best practice when letting Affordable Housing, and help to control Anti-Social Behaviour and rent arrears.

Advertising and Letting Flexible Tenancies

- 2.7 Dacorum Borough Council currently uses a Choice Based Lettings (CBL) system called **Moving with Dacorum** to advertise all of its properties and most Registered Provider properties.

- *Dacorum Borough Council will let Flexible Tenancies through the Moving with Dacorum Choice Based Lettings scheme. Tenancy lengths will be made clear on property adverts and this will apply to properties owned by both the Council and Registered Providers.*

- 2.8 Flexible Tenancies will be advertised as part of the CBL scheme in the same way as existing Assured and Secure (Lifetime) Tenancies. Each advert will clearly display the tenancy type and conditions, making it easy for prospective tenants to choose the properties they wish to bid for within the Council's existing allocation procedures.

Allocating Flexible Tenancies

- 2.9 Dacorum Borough Council currently allocates Affordable Housing in line with the Council's Housing Allocations Policy. Applicants are given points for meeting housing need priority criteria, which determine positions on the CBL shortlist used to allocate properties.

- *Dacorum Borough Council will continue to let properties in line with the Housing Allocations Policy. No additional allocation criteria for Flexible Tenancies will apply, unless specified in a local lettings scheme. The Choice Based Lettings process will be followed by the Council and Registered Providers.*

- 2.10 This approach is consistent with meeting the housing needs of households and ensures fairness and transparency as well as clarity for prospective tenants.

Transfer applicants and Flexible Tenancies

2.11 Many transfer applicants on the Dacorum Borough Council Housing Register will currently have Lifetime Tenancies.

- *Transfer tenants will retain their current tenancy type if and when they chose to transfer between properties.*
- *The Council would encourage Registered Providers to allow their transferring tenants to retain their current tenancy type if and when they chose to transfer properties.*

2.12 This means that if an applicant currently has a Lifetime Tenancy, and they choose to transfer to a property that would otherwise be re-let to a new tenant as a Flexible Tenancy, they will be offered another Lifetime Tenancy. Dacorum Borough Council would like Registered Providers to offer existing secure tenants who wish to transfer as much security of tenure as they are able to.

2.13 The Council believes that this approach is in line with the Government's guidance to protect the tenancies of existing tenants. This will also ensure that transfer applicants continue to apply for properties and aid the Council in achieving the best use of stock.

Ending Flexible Tenancies

2.14 As the end of a Flexible Tenancy approaches, a review process will be undertaken to determine whether a new fixed term Flexible Tenancy will be issued. This process will be known as the Flexible Tenancy review procedure.

- *Dacorum Borough Council will operate a presumption to renew a Flexible Tenancy for a further five year fixed term, unless a tenant's household circumstances have changed from the point they were allocated a property.*
- *The Council would encourage Registered Providers to also adopt a presumption to renew in their Strategic Tenancy Policies.*

2.15 If a tenant is assessed as being in the same housing need as when his/her tenancy was issued then a further five year Flexible Tenancy will be issued. The review procedure will use the housing need priority criteria in the Housing Allocations Policy. The Council encourages Registered Providers to give regard to this procedure and explain clearly to their tenants with Flexible Tenancies the exact criteria by which their tenancies will be assessed, and then either renewed or ended. The Council believes that this approach offers substantial and appropriate security of tenure for the tenant, while also maximising the use of stock and meeting the Government's wider policy objectives.

Flexible Tenancy Review

- 2.16 As stated above, Flexible Tenancies must undergo a review when they approach the end of their fixed term period, in order to determine whether another tenancy will be issued or not.
- 2.17 For tenants of Dacorum Borough Council the review procedure will consist of assessing tenants using the Council's Housing Allocations Policy. This is the same assessment process that is used to make the original decision to award a tenancy. If there have been no changes to a tenant's circumstances, then another Flexible Tenancy will be issued. Full details on the review process will be outlined in the Council's Flexible Tenancy review procedure and the Flexible Tenancy Agreement (the contract). Registered Providers are encouraged to review their Flexible Tenancies using the assessment criteria within the Dacorum Borough Council Housing Allocations Policy, but are not obliged to do so.

- *If a tenant's circumstances have changed, the Council will conduct a Housing Options review with the tenant, which may include an offer of more suitable accommodation elsewhere.*
- *The Council will produce a Flexible Tenancy review procedure, which will contain the details on how this process will be handled.*
- *The Council encourages Registered Providers to commit to adopt a similar review process in their Strategic Tenancy Policies.*

- 2.18 The Council believes that assessing tenants against the Housing Allocations Policy is fair, consistent and transparent and will adequately assess tenants' housing needs. The Flexible Tenancy review procedure will be in place prior to properties being let on Flexible Tenancies. This will ensure that tenants are aware of the review process when they sign up for new properties.

Timing of Review

- 2.19 When a Flexible Tenancy approaches its end date the landlord must undertake a review. The Localism Act mandates Local Authorities and Registered Providers to give a tenant six months' notice that a Flexible Tenancy is not to be renewed.

- *The Council will start the Flexible Tenancy review process 12 months before the scheduled end date of the tenancy.*
- *The Council would encourage Registered Providers to follow a similar review timeframe.*

- 2.20 This approach to reviews meets the Council's statutory obligations and gives tenants more than sufficient time to make decisions about the outcomes of the review process.

What happens if a Flexible Tenancy is ended?

- 2.21 The Council has a statutory duty to provide advice to tenants when a Flexible Tenancy is to be ended. Registered Providers also have a duty to provide advice to tenants if a tenancy is ending.

- *A decision on whether or not a tenancy will be renewed will be made with a minimum of six months of the tenancy's fixed term period remaining.*
- *If a tenancy is ended, the tenant will be offered housing advice to explore their alternative housing options.*
- *This process will apply to both Council and Registered Provider properties.*

- 2.22 Dacorum Borough Council would like to be informed of every case where a Registered Provider is intending to end a Flexible Tenancy. In this way the Council will be able to respond by providing housing options advice if required, and thereby prevent or safeguard against any instance of Statutory Homelessness. This approach is in line with the Council's commitment to prevention set out in its Homelessness Strategy, and will also ensure that tenants do not feel isolated.

Tenancy Review Appeals

- 2.23 Tenants will be given the right to appeal against the outcome of their review. Details of the right to appeal will be set out in the Flexible Tenancy review procedure. Information on the review process will be available to tenants when they sign up to a Flexible Tenancy.

- *The Flexible Tenancy review procedure will set out the appeal process.*
- *Registered Providers are required to set out their appeal process and provide written copies on request.*

Lifetime Tenancies

- 2.24 All existing tenants in Affordable Housing (Affordable Housing includes all types of Council and Registered Provider homes) will hold either an Introductory or Starter Tenancy, or an Assured or Secure Tenancy (Lifetime Tenancy). Secure and Assured Tenancies are often referred to as Lifetime Tenancies because they do not expire, providing tenants with a 'home for life', assuming that they do not breach the Tenancy Agreement.
- 2.25 The ability for Affordable Housing providers to offer Lifetime Tenancies remains under the Localism Act 2011 and Dacorum Borough Council believes that there is value in continuing to use this tenancy type for some households.

- *The Council will continue to offer Lifetime Tenancies to all tenants being allocated a home in Sheltered Housing. These properties are let only to applicants meeting specific minimum criteria, for example age or support needs.*
- *Registered Providers are encouraged to also continue to use Lifetime Tenancies for their Sheltered Housing stock.*

- 2.26 The Council believes that this approach to providing Lifetime Tenancies strikes the correct balance between protecting tenants, providing security of tenure, and meeting the Government's intentions for Affordable Housing. Sheltered Housing, by its definition, is designed to provide security and meet housing need towards the later stages of a tenants' life, when a tenant's circumstances are less likely to change.

Affordable Rent

- 2.27 Affordable Rent properties may be let in the Borough by both Dacorum Borough Council and its partner Registered Providers. Properties can be let at up to 80% of market rents for the property type, inclusive of service charge.
- 2.28 Dacorum Borough Council agrees that Affordable Rent properties should be developed in the Borough as they are one of the principal ways of raising income to deliver new Affordable Homes. Registered Providers in the Borough are already developing Affordable Rent properties. Affordable Rent can be affordable for households in housing need (supported by the Dacorum Housing Market and Needs Assessment 2012) and at the current time this rent model will not result in rent levels above the limits and caps on claimants of Housing Benefit, making it accessible to all potential tenants.
- 2.29 The vast majority of the Council's Affordable Homes will continue to be let at Target 'Social' Rent levels.

Council New Build

2.30 The Council has entered into a contract with the Homes and Communities Agency to build new council properties. Phase 1 of the New Build Programme was approved by Cabinet in October 2012, which will see new Council-owned homes built for the first time in many years

Affordable Rent properties owned by Registered Providers

2.31 The Council welcomes plans by Registered Providers to build new Affordable Rent properties in the Borough. More information on the Council's stance to building new Affordable Homes can be found in the Council's Affordable Housing Supplementary Planning Document (SPD).

- *The Council expects Registered Providers to only re-let properties in their existing stock at Affordable Rent levels for the number of properties they have agreed with the Homes and Communities Agency.*
- *Re-lets at Affordable Rent levels should be spread geographically through a Registered Provider's stock, and not concentrated in Dacorum.*

2.32 The Council accepts that Registered Providers' new build plans will in part be funded by the re-let of existing properties at Affordable Rent levels. The Council will monitor its partners to ensure that Registered Providers only re-let as Affordable Rent the number of properties in the area agreed in their contracts with the Homes and Communities Agency. The Council therefore expects some Registered Provider-owned properties to continue to be re-let at Social Rent levels.

Letting of Affordable Rent Properties

2.33 Central Government has made it clear within the Localism Act 2011, that the letting of Affordable Rent properties should not be treated any differently to Social Rent properties.

- *The Council will let all Affordable Rent properties through the Moving with Dacorum Choice Based Lettings scheme in accordance with its Housing Allocations Policy. The rent level will be clearly stated in all adverts, and this will be the same for both Council and Registered Provider stock.*

- 2.34 This approach is clear and transparent for tenants, meets the Council's existing nominations agreements, and makes use of the Council's existing allocation systems. The Council is taking this approach because we do not believe there should be additional criteria placed upon Affordable Rent properties which are not covered in the Council's Housing Allocations Policy.

Succession

- 2.35 Succession occurs in the case of a death of a tenant when a member of their household wants to take over the tenancy. Existing terms of succession will not be changed or affected by this Strategic Tenancy Policy.

3. Consultation Summary, monitoring and review

Statutory Consultation

Some areas of the Strategic Tenancy Policy are fixed by the Council's statutory obligations to provide a Tenancy Strategy outlined in Part 7 of the Localism Act 2011. A process of statutory and non-statutory consultation ran in August and September 2012, involving relevant Council Teams, Members, and Registered Providers. The consultation process followed Government guidance and national policy examples.

Statutory responses

- 3.1 Feedback received from statutory partners was positive, with no negative comments.
- 3.2 Hightown Praetorian and Churches Housing Association (HPCHA) welcomed the document, commenting that the proposed changes were generally in line with their approach. HPCHA did however comment that they will be letting Sheltered Housing on fixed term tenancies and that they did not agree with the Council's approach on retaining Lifetime Tenancies for eligible tenants of Sheltered Housing.

Non-statutory Consultation responses

- 3.3 The Council also opened the consultation to the wider public and interested parties by making use of:
 - The Council website's consultation portal; and
 - Questionnaire feedback from a number of Tenant Consultation events in March and April 2012.
- 3.4 Through the Tenant Consultation events over 80 responses were received to a short questionnaire with items relating to the various proposals of the Strategic Tenancy Policy. The majority of respondents were in favour of the changes proposed by the Council, and frequently stated the opinion that an increased availability of homes would be beneficial to households in housing need.
- 3.5 One formal consultation response was received through this wider, non-statutory consultation. This response agreed with some of the Strategic Tenancy Policy but raised further issues as summarised in the list below:
 - Concerns the Council's repair bill would increase due to an increase in voids
 - Suggested 10 Years is a more appropriate length for a flexible tenancy

- Housing need should decide who gets properties, not employment
 - Concern some tenants may not invest in their homes due to lack of security of tenure
- 3.6 The majority of responses to the Consultation gave the view that the proposals put forward by the STP are positive.
- 3.7 The issues raised in the non-statutory formal response were considered at the drafting stage of the STP and are taken seriously by the Council. However, it is the view of the Council that the STP proposals are both, in line with Government guidance and best practice, and the best solution to the lack of Affordable Homes available within the Dacorum area.

Monitoring and review

- 3.8 The Council will take a rigorous approach to monitoring the impact of this Strategic Tenancy Policy on tenants, prospective tenants and Registered Providers. A number of performance indicators will be reported regularly to the Housing Overview and Scrutiny Committee to monitor the STP.
- 3.9 This policy will undergo a full review in March 2015 in line with the end of the Government's Affordable Homes Programme.
- 3.10 If you have any further queries or comments on the STP, please contact:

housingdelivery@dacorum.gov.uk

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