

# **WESTMINSTER CITY COUNCIL TENANCY STRATEGY**

**Updated December 2016**

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## 1. Introduction

- 1.1 The Localism Act 2011 requires local authorities to develop a Tenancy Strategy setting out the matters which registered providers of social housing (RPs)<sup>1</sup> should have regard to when formulating their policies for their own stock, relating to:
- (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 granted
  - (d) The circumstances in which they will or will not grant a further tenancy on the coming to an end of the existing tenancy.
- 1.2 This Tenancy Strategy fulfils the objectives set out in the Localism Act 2011 and complies with the Homes and Communities Agency new regulatory framework for social housing. The legislative changes enable RPs to offer fixed term tenancies, rather than secure or assured ones which are usually for the lifetime of the tenant unless they breach their tenancy agreement. New legislation also affords local authorities greater freedom in discharging their housing duties.
- 1.3 The Localism Act 2011 introduces a new type of local authority tenancy from April 2012, called a flexible tenancy. This is a form of secure tenancy but can be for a minimum fixed term of two years. The Homes and Communities Agency regulatory framework for social housing also enables private RPs to offer fixed term assured tenancies from April 2012. In 2011 a new Affordable Rent product was introduced which enabled RPs in certain circumstances<sup>2</sup> to offer tenancies on fixed terms, with rents up to 80% of market rents.
- 1.4 These changes represent a significant move away from a position where social housing is always for life, to one where it may only be for a period while it is needed. The government aims for social housing to be a vehicle for progression and mobility.
- 1.5 Private RPs play a valuable role in helping to meet housing need in Westminster. The City Council is seeking a harmonised set of tenancy terms, renewal policies and approaches to Affordable Rent across the City between different social

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<sup>1</sup> Registered providers include private registered providers (formerly known as housing associations) and local authorities which provide social housing

<sup>2</sup> RPs offering Affordable Rent tenancies need to have permission from the Homes and Communities Agency and their use needs to be linked to a development programme

landlords, which are easy to explain to customers and best respond to local needs.

- 1.6 The Tenancy Strategy will be accompanied by a Tenancy Policy for the City Council's own housing stock. The Tenancy Policy will have more detail about the City Council's approach to flexible tenancies and will follow the principles set out in this strategy.

## **2. Regulatory requirements**

- 2.1 The Homes and Communities Agency published a new regulatory framework for social housing in April 2012. The regulator requires all providers to publish clear and accessible policies which set out a range of factors including:
- The type of tenancies they will grant
  - Where they grant tenancies for a fixed term, the length of those terms
  - The circumstances in which they will grant tenancies of a particular type
  - Any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years
  - The circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property
  - The availability of support and advice to be given to assist persons in finding new accommodation when a decision not to renew a tenancy has been made.
- 2.2 All RPs need to have developed a tenancy policy before they can implement fixed term tenancies. This Tenancy Strategy will assist them in developing such policies or updating any existing policies. The full regulatory requirements for social landlords are available at:  
<http://www.homesandcommunities.co.uk/ourwork/regulation>

### 3. The Westminster environment

- **Summary of main issues**
- **Significant mismatch between social housing supply and demand**
- **Difficulties in developing new affordable housing due to high land values**
- **Few family sized intermediate housing opportunities**
- **Areas of deprivation in certain wards with high levels of unemployment**
- **High level of benefit recipients in social housing**
- **Some of the most expensive market housing in London**

- 3.1 Westminster is a unique place in the UK at the heart of one of the world's leading cities and home to nearly a quarter of a million people. It provides 577,000 jobs and has excellent links to other parts of London and the UK. Compared to other local authorities, it has the highest proportion of residents born outside the UK (52% compared with 9% for England), and the highest level of international migration per 1,000 population. There is a very large private rented sector (estimated to make up 46% of the stock) which contributes to high levels of population churn across the City.
- 3.2 Westminster is a polarised borough with considerable affluence and areas of deprivation – for example, Queens Park and Church Street are among the top 10% of deprived wards in the country; Harrow Road and Westbourne are among the 10-20% most deprived, and Churchill ward is among the 20-30% most deprived.
- 3.3 Just over 11% of working age people claim worklessness benefits, which is less than the 14.3% London average. 2.7% of the Westminster population receive Job Seekers Allowance (JSA) and there are above average levels in Queen's Park (6.6%), Harrow Road (5.9%), Church Street (4.9%), Westbourne (4.6%) and Churchill wards (4.2%). These areas have high levels of social housing. Many social housing tenants claim benefits – 69% of City Council, 75% of private RP and 94% of temporary accommodation residents receive Housing Benefit. The 16-24 age group is the most affected by unemployment - 3.7% of Westminster 18-24 year olds receive JSA compared with 2.6% of the 25-49 year old group<sup>3</sup>.

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<sup>3</sup> From Nomis: [www.nomisweb.co.uk/](http://www.nomisweb.co.uk/)

- 3.4 Westminster's housing differs markedly from other areas. Property prices are the second highest in London. A lower quartile property costs £399k compared with £225k across London<sup>4</sup>. Private rents are the third highest in London and the cost of a median two bedroom property is £624 per week<sup>5</sup>.
- 3.5 Social housing makes up one quarter of the total housing stock and there are over fifty social landlords operating in Westminster. There is a significant mismatch between supply and demand with 3,700 people with priority waiting for housing, which includes 1,700 in temporary accommodation and 1,000 overcrowded households. There are c1,000 lettings annually.
- 3.6 If all the housing lists were closed to new applicants it would take seven years to accommodate everyone needing a three bedroom property and thirteen years for everyone needing more than three bedrooms. The stock profile does not match demand as 47% is studios and one bedrooms and the biggest need in the City is for family sized housing.
- 3.7 The City Council is embarking on an ambitious programme of area/estate renewal in the Church Street and Westbourne Green areas and on the Tollgate and Ebury Bridge estates. Each is at various stages of master planning. The renewal programme aims at 'whole place' transformation such as; addressing youth violence, improving health and wellbeing and creating employment and enterprise, along with addressing overcrowding, improving properties and developing new supply.
- 3.8 Building new affordable housing in Westminster is difficult due to the high cost of land and competition for alternative land uses. The City has relied heavily on new affordable housing being developed through Section 106 agreements. There are few family sized intermediate housing opportunities in Westminster.
- 3.9 The majority of tenants live peacefully in their homes, however, small numbers are involved in anti social behaviour which causes significant problems for residents and the community.

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<sup>4</sup> Hometrack

<sup>5</sup> Hometrack

## 4. Objectives of the Tenancy Strategy

4.1 Westminster's Tenancy Strategy aims to:

- **Protect and provide stability for vulnerable people** – social housing is an essential and valuable resource for vulnerable people, this may be for their lifetime or for a period when it is needed
- **Promote economic activity and not disincentivise work** – the City Council believes tenancy policies should encourage work and mobility
- **Make the best use of the stock** – social housing supply in Westminster can never keep pace with demand and there are limited opportunities to develop new homes. There is a clear need to make the best use of the housing stock for those that most need it and to ensure that households are not living in accommodation which is larger than they need
- **Be fair and not 'over subsidise' households** – social housing should not necessarily be a lifetime tenure and those that can afford alternatives should pay more rent, or consider other options
- **Be relatively simple to understand, administer and communicate** – the benefits of having greater flexibility over the stock should not be outweighed by the cost of administration. Simple policies which are not overly bureaucratic are supported
- **Ensure those most in need are housed** - the City Council believes that people prioritised through Westminster's Housing Allocation Scheme should benefit from affordable housing. Affordable Rent tenancies should not be let to households without this defined need
- **Help reinforce the responsibilities of the tenancy agreement** - social housing comes with responsibilities and fixed term tenancies provide an opportunity to help address serious issues such as anti social behaviour.

## 5. Tenancy terms

- 5.1 The City Council supports the use of introductory or probationary tenancies of one year followed by fixed term tenancies. Fixed term tenancies provide a way of making the best use of limited stock as well as linking tenancy renewal and length of tenancy to responsibilities.
- 5.2 There is a presumption that the majority of fixed term tenancies will be for a minimum of five years following which tenants' circumstances will be assessed to establish if a new fixed term tenancy should be offered (see section 6). Five year tenancies are supported as they strike a balance between households having adequate security and feeling settled in an area, with the ability for social landlords to make the best use of their housing stock to meet need. It is expected that the majority of fixed term tenancies will be renewed (or a smaller property provided) and this expectation should be communicated to tenants at the start and periodically throughout their tenancy (see section 11).
- 5.3 The regulator states that tenancies of less than five years should only be granted in exceptional circumstances. There may be exceptional circumstances which arise in individual cases, which would justify granting a fixed term of tenancy of less than five years (examples are given below in 5.4 and 5.6).
- 5.4 Types of exceptional circumstances in which RPs may grant a renewable tenancy of less than five years include where an existing five year tenancy has come to an end, and a further shorter term is more appropriate, because for example, the tenant has a history of not keeping to the terms of their tenancy agreement. This will help to send out a clear message about a tenant's responsibilities and may result in a closer relationship between the landlord and tenant. It also provides an opportunity to put necessary support in place. Examples of breaches of the tenancy agreement could include; where the tenant has not kept to the terms of a rent arrears agreement for eight weeks, or where there have been complaints of nuisance or anti social behaviour and warning letters have been issued, but there is evidence the nuisance or anti social behaviour is continuing.

## 5.5 **Non Priority Flexible Tenancies**

Flexible tenancies provide the opportunity to offer housing, in some limited circumstances, and subject to the availability of housing stock, to households on the basis that the tenancy is not intended to provide a permanent housing solution.

5.6 In these cases the tenancy is aimed to provide housing for less than five years, in exceptional circumstances, for people that would not ordinarily have priority for housing under the City Council's Housing Allocation Scheme. Examples of where these Non Priority Flexible Tenancies are supported include where:

- Tenants can benefit from low cost housing for a limited period providing them with an opportunity to save for a deposit for alternative housing
- They provide an incentive to participate in a programme of employment or training support
- They are intended to address a particular problem or issue such as youth unemployment
- They provide some transitional housing, following a bereavement, for people without priority for Housing under the City Council's Housing Allocations Scheme, that were close family members of the deceased tenant (see 8.6).

## 5.7 **Lifetime tenancies**

Lifetime tenancies are supported for the elderly that are 60 or over in sheltered housing<sup>6</sup>.

5.8 The Localism Act 2011 and regulatory framework for social housing requires all RPs to offer secure or assured tenancies to applicants that were already social tenants before the provisions were enacted, and this applies to mutual exchanges, transfers, reciprocal moves or moves as a result of major works or regeneration (it does not apply to Affordable Rent tenancies).

5.9 The provisions were enacted on 1<sup>st</sup> April 2012. The City Council expects there to be no downgrading of tenure security for **existing secure or assured tenants regardless of when they were created** (with the exception of where tenants choose to bid for Affordable Rent tenancies). This will help to ensure mobility across the social sector and will be simpler to administer and explain to tenants.

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<sup>6</sup> In the City Council's social housing stock sheltered housing is also known as Community Supportive Housing

## **6. Tenancy renewal and advice and assistance when a tenancy comes to an end**

### **6.1 The review meeting**

RPs are expected to work to the principles below when carrying out review meetings to determine if a new fixed term tenancy should be offered at the same or another property.. The review meeting should be:

- Sensitive to the needs of vulnerable people. There may be circumstances where a tenant finds it hard to participate in the review meeting. Where appropriate, and with the tenant's consent, the meeting should be carried out with a support worker, friend or representative of the tenant. Where a tenant is vulnerable, non participation in the review should not, of itself, be a reason for ending the tenancy
- Held with enough time for all the issues to be considered and for appeals to be made
- Be a positive experience and used as an opportunity to link the household to any necessary support including employment support. It should also be used as an opportunity to identify any difficulties the tenant may be having, such as problems with neighbours or harassment, that may have gone unreported
- An opportunity to consider the income and capital of the tenant and their spouse to discuss other appropriate housing options which the tenant may be interested in such as; intermediate housing, exercising the Right to Buy or other private sector alternatives. When discussing these options it may also be appropriate to consider the income of other household members.

### **6.2 Offering new tenancies**

Circumstances where RPs may consider not offering a new tenancy at the same property are:

- Where households are under occupying in line with the City Council's Bedroom Standard, or any equivalent adopted standard, set out in the Housing Allocation Scheme. In these cases alternative housing should be offered to meet needs. It is expected that vulnerable people will be supported to move. Where possible and where housing supply allows, rehousing should be close to any support networks
- Where a Non Priority Flexible Tenancy was offered and there are no exceptional circumstances which may warrant the granting of a further tenancy (see 5.5 and 5.6).

- 6.3 Circumstances where RPs may consider not offering **any** further tenancy are:
- Where there has been a serious and persistent breach of the tenancy agreement such as anti social behaviour or high levels of rents arrears, at a level where it would be deemed by the RP reasonable to refer the tenant to court and for the court to grant a possession order
  - Subject to the government implementing changes to legislation in accordance with current proposals, where the tenant or a household member has been convicted of serious housing related anti social behaviour by another court, and it would be reasonable to apply for mandatory possession<sup>7</sup>
  - Where a Non Priority Flexible Tenancy was offered and there are no exceptional circumstances which may warrant the granting of a further tenancy (see 5.5 and 5.6).

#### 6.4 **Decisions about offering new tenancies**

In making decisions about offering new fixed term tenancies, RPs should have regard to:

- The particular circumstances of each individual tenant, including if they are vulnerable. RPs are expected to exercise their discretion in relation to offering new tenancies to take account of individuals' vulnerability and personal circumstances
- The impact moving would have on the health of the tenant or a household member in cases of under occupation
- Whether the property has been specifically adapted for a disabled person and the impact of reinstating disabled adaptations in a new property in cases of under occupation
- The impact moving would have on other household members in cases of serious breaches of the tenancy agreement
- The impact on neighbours and the community in cases of serious breaches of the tenancy agreement such as nuisance or anti social behaviour
- The views of support agencies working with the household
- Their equalities obligations under the Equality Act 2010 in relation to the tenant and household members.

#### 6.5 **Procedures for ending tenancies**

Following the review meeting RPs should advise and consult with tenants in advance about why a new tenancy may not be offered. They should also provide

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<sup>7</sup> In November 2011 the government proposed that social landlords could apply for possession for anti-social behaviour under a new mandatory power where anti-social behaviour or criminal behaviour has already been proven by another court and is housing related. Further information on the proposals are at; <http://communities.gov.uk/documents/housing/pdf/1959275.pdf>

their tenant(s) with notice of their intention not to renew, with written reasons for non-renewal and with a clear explanation that the tenant has the opportunity to appeal that decision.

#### **6.6 Advice and assistance when tenancies are ending**

If the tenancy is ending and the tenant is expected to move to another social housing property, advice and support should be given appropriate to the needs of the tenant. Particular consideration should be given to the needs of vulnerable people and the support they may need to move. RPs should recognise that moving is a stressful event. General advice for movers should include how to bid for alternative properties and what needs to be done to prepare for a move.

6.7 Where no social housing alternative is being offered, RPs should provide advice about private sector housing options and they may need to liaise with Children's Services at the City Council if there are dependent children in the household, and it is clear that the family will be homeless once the tenancy has ended.

6.8 The City Council recognises it can assist private RPs in providing advice and assistance about alternative housing options. A local housing market bulletin is produced regularly which is available to private RPs and which highlights the cost of private and intermediate housing in Westminster. The City Council also runs an intermediate housing service, Homeownership Westminster, which advertises intermediate housing opportunities in the City.

### **7. Appeals about tenancy length and decisions to end a fixed term tenancy**

7.1 The regulator requires RPs to set out the way in which a tenant or prospective tenant may appeal against or complain about the length of the fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of a fixed term tenancy.

7.2 The City Council expects RP tenancy policies in this area to:

- Set out to whom appeals should be made (this is expected to be a more senior officer that was not involved in the original decision) and how they can be made
- Give timescales for dealing with appeals
- Set out how the tenant can take their appeal further if they are dissatisfied with the response i.e. to a tenant panel or Housing Ombudsman, and where they may get independent advice
- Be accessible and easily available i.e. published on websites/available in local offices.

- 7.3 Where a new prospective tenant has appealed against the length of the fixed term tenancy being offered, it is expected that they will move into the property while the appeal is being considered, and any necessary adjustments to the tenancy length will be subject to the outcome of the review.

## 8. Succession

- 8.1 The Localism Act 2011 allows only one right of succession to the property of the deceased tenant, to a spouse or civil partner<sup>8</sup> for flexible tenancies, and for new secure tenancies created on or after 1<sup>st</sup> April 2012. This means different local authority social tenancies have different succession rights in law.
- 8.2 The changes in legislation bring the statutory succession rights for local authority flexible tenancies and secure tenancies created on or after 1<sup>st</sup> April 2012 into line with those of assured tenants of private RPs, although many private RPs have discretionary policies giving additional rights.
- 8.3 The regulatory framework for social housing allows RPs to have discretionary succession policies. For fixed term tenancies, the City Council supports one further second or discretionary succession where one statutory succession has already taken place in the circumstances set out below (see 8.5 and 8.6).
- 8.4 It is acknowledged that RPs may already have discretionary succession policies for existing secure and assured tenants which they may not wish to amend, as they form part of their tenants' contractual rights. The introduction of fixed term tenancies however marks the opportunity to enter into new arrangements with tenants and to make the best use of housing stock for those that most need it.
- 8.5 For fixed term tenants, circumstances where one second or discretionary succession to a renewable fixed term tenancy is supported are:
- Where the applicant is a spouse or civil partner of the deceased tenant, and had lived with them as part of their household for at least one year prior to their death, as their main home, **and** would have priority to be rehoused under the City Council's Housing Allocation Scheme
  - Where the applicant is an adult son, daughter, brother, sister or partner of the deceased tenant, and had lived with them as part of their household for at least

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<sup>8</sup> For the purposes of the Act, a person who was living with the tenant as a husband or wife is to be treated as a spouse and a person who was living with the tenant as a civil partner is to be treated as a civil partner

five years, prior to their death, as their main home, **and** would have priority to be rehoused under the City Council's Housing Allocation Scheme.

- 8.6 Where the applicant is a spouse or civil partner of the deceased tenant and had lived with them as part of their household for at least one year prior to their death as their main home, or, is an adult son, daughter, brother, sister or partner of the deceased tenant that had lived with them as part of their household as their main home, for at least five years prior to their death, but does **not** have priority to be rehoused under the City Council's Housing Allocation Scheme, the offer of a **non renewable fixed term tenancy of two years** is supported. This is to give close family members some short term stability following a bereavement and to give them time to plan a move.
- 8.7 A discretionary succession should not be to the property where the applicant has been living, if it is too big for their needs. Policies should make it clear that discretionary successors will need to move to more suitably sized properties unless there are exceptional circumstances.

## 9. Rent Increases

- 9.1 The majority of social housing tenants pay rents which are well below market rents. The City Council believes it is fair that those with high incomes should pay more rent, with the income raised reinvested back into the development of the new affordable housing supply. To enable this to happen, for existing tenants, a number of national policy and legislative changes are needed.
- 9.2 The government is consulting on a national Pay to Stay scheme<sup>9</sup>, which proposes that a market rent, or 80% of a market rent, should be charged to social housing tenants where they have high incomes. The consultation puts forward options on when rent should be increased and asks for views on whether the income level should be £60k, £80k or £100k. It also asks if there is a case for the level being set at below £60k. It is proposed that the combined earnings of the two highest earners in the household is taken into account when assessing income.
- 9.3 The City Council supports the following principles for any final scheme:
- Only the income of the tenant and their spouse, civil partner or partner is taken into account as adult sons and daughters may be saving for their own home

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<sup>9</sup> [www.communities.gov.uk/publications/housing/paytostayconsultation](http://www.communities.gov.uk/publications/housing/paytostayconsultation)

- Capital assets are also included in the calculation and assumed to generate an income
- Rent should be increased when the income of the tenant and their spouse, civil partner or partner exceeds the London Mayor's affordability limits for eligibility for intermediate housing (currently known as First Steps). This is because where earnings are above these limits, households are not eligible for any affordable housing, and this is a good indication they are able to pay higher rents. Current thresholds are subject to change and are in 2012/13; a gross income of £64,300 for those living in properties of up to two bedrooms, and a gross income of £77,200 for those living in properties of three or more bedrooms
- Rent increases are phased in so the tenant has time to plan for them and they are not a sudden shock
- Market rents should be charged when income exceeds the thresholds above, unless a market rent would be more than 40% of net income, in which case the rent should be capped at 40% of net income. This reflects the fact that some market rents in Westminster are very high and also that the London Mayor's Draft Supplementary Planning Guidance says that housing costs should not exceed 40% of net income.

9.4 RPs are encouraged to participate in any final scheme. If the scheme is not implemented they are encouraged to increase rents, where the law and the regulatory standards allow, in line with the above principles (in 9.3). The Tenancy Strategy will be reviewed and updated when further information about Pay to Stay is known.

## **10. Affordable Rent**

10.1 In 2011, a new Affordable Rent product was introduced to enable RPs in some circumstances to charge higher rents. The City Council has produced an Affordable Rent Statement which sets out its approach to the product<sup>10</sup>. It is expected that affordable rent tenancies are affordable to households with income levels set out in the table below. These are based on the incomes of households with lower quartile to median incomes that are registered for intermediate housing in the City.

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<sup>10</sup>

[http://transact.westminster.gov.uk/docstores/publications\\_store/Affordable\\_Rent\\_Statement\\_and\\_Stat\\_Appendix\\_FI\\_NAL\\_September\\_11.pdf](http://transact.westminster.gov.uk/docstores/publications_store/Affordable_Rent_Statement_and_Stat_Appendix_FI_NAL_September_11.pdf)

<b>Beds</b>	<b>Gross Affordability Threshold*</b>
1	£25k-32k
2	£27.5-£36k
3+	£29k-£39k

\*Based on net being 70% of gross and housing costs not exceeding 40% of net income.

10.2 In summary The City Council's guiding principles on Affordable Rent are:

- The City Council expects to benefit from development opportunities generated through Affordable Rent in Westminster
- Affordable Rent should not reinforce long term benefit dependency and should reflect incomes that households could reasonably be expected to sustain without Housing Benefit
- Affordable Rent tenancies should ideally be linked with support for non working households to access training and employment
- Affordable Rent tenancies for elderly households in sheltered accommodation are not supported, as the tenants have fixed incomes
- RPs should take account of wider welfare benefit policy when rent setting
- The disposal of properties which results in a loss of supply is not supported
- Properties converted to Affordable Rent will need to contain features which will make them attractive to bidders in terms of location, tenancy terms, size and quality.

10.3 Additionally the City Council supports Affordable Rent properties being let to households eligible for social housing and will work with RPs to minimise void periods.

10.4 The statement will be reviewed periodically.

## **11. Developing and communicating tenancy policies**

11.1 In developing their policies RPs are expected to engage and consult with the City Council, their residents and other stakeholders.

11.2 Tenancy policies should have a focus on tenancy sustainment and supporting vulnerable people.

11.3 RPs are expected to have tenancy policies which are easy to understand and are clear, so new fixed term tenants fully understand them, and they should be communicated in an accessible way. Any links between tenancy renewal, tenancy length and breaches of the tenancy agreement need to be strongly

communicated at the beginning of the tenancy and throughout. Any intention not to offer new fixed term tenancies at the same address due to under occupation should also be highlighted, so tenants are aware of the policy, and understand the reasons for it.

- 11.4 The expectation is that further fixed term tenancies will be offered in the majority of cases and this should be clearly communicated to tenants throughout their tenancy. This will help people, particularly those that are vulnerable, feel connected and settled in their homes and able to contribute to the local area and to invest in their home.

## 12. Equalities

- 12.1 As service providers, RPs are subject to the Equality Act 2010 and must take necessary steps to ensure their policies, procedures and practices do not lead to unlawful discrimination and should promote equality of opportunity. The public sector equalities duty under the Equality Act 2010 requires public bodies in exercising their functions to have due regard to the need to;
- **Eliminate unlawful discrimination** – for example victimisation and harassment based on protected characteristics
  - **Advance equality of opportunity** – between people that share protected characteristics and those that do not
  - **Foster good relations** – between people that share protected characteristics and those that do not.
- 12.2 People have protected characteristics due to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. The duty to have due regard must be proportionate to the type of decision and the vulnerability of the person in question.
- 12.3 Case law current at the time of writing this strategy<sup>11</sup> suggests that the duty referred to at 12.1 applies to private RPs when carrying out public functions. It is likely that most private RPs are carrying out public functions in rent setting and managing and terminating social housing tenancies, and it is therefore (and in any event) expected that private RPs will have due regard to the matters referred to in 12.1 above as though they expressly applied to private RPs. Equalities

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<sup>11</sup> London & Quadrant Housing Trust v Weaver, R. (On the application of) [2009] EWCA Civ 587 (18 June 2009)

duties apply every time a decision in respect of social housing tenancies is made, which may impact on a member of a protected category.

- 12.4 RPs should consider undertaking Equalities Impact Assessments of their tenancy policies in order to discharge their duties under the Equalities Act 2010. They are expected to monitor the equality impacts of their policies annually to ensure they do not impact negatively on groups with protected characteristics or result in any discrimination. This will enable any necessary adjustments to be made to avoid negative equalities impacts.

### **13. Working in partnership**

- 13.1 The City Council values private RPs as partners in meeting housing need, tackling social housing fraud and in providing good tenancy management for residents. A protocol is being considered in key service areas for social landlords operating in Westminster. This would harmonise standards in areas such as repairs, anti social behaviour, cleaning and complaints, so tenants of different social landlords know what to expect from them. It is anticipated a protocol could raise standards and improve resident satisfaction. An investigation into performance and tenant satisfaction across the City has highlighted the difficulties of benchmarking between social landlords and the varying service standards.
- 13.2 The City Council recognises the work of private RPs in tackling social housing fraud. The City Council currently runs a social housing fraud project which provides an investigations service for private RPs for complex cases. An information sharing protocol has also been developed to enable private RPs to access information held by the City Council to support their investigations. Private RPs are encouraged to make use of the service and the protocol and to work with the City Council to tackle fraud and to share good practice.

## **14. Reviewing the Tenancy Strategy**

- 14.1 This strategy will be reviewed periodically and private RPs and the Mayor of London will be consulted on about any proposed changes.

## **15. Developing the Tenancy Strategy**

- 15.1 The draft Tenancy Strategy was consulted on during March and April 2012. It was sent to a wide range of stakeholders, including private RPs with stock in Westminster and the Mayor of London. The strategy was discussed at a number of meetings including those with residents. Thirty three responses were received from individuals and organisations.
- 15.2 Views were mixed with some people and organisations supporting some or all of the proposals and others raising concerns about them. Proposals which received the most support were:
- Using fixed term tenancies as a way of addressing anti social behaviour
  - Using fixed term tenancies to address under occupation to make the best use of the stock
  - Increasing rents when tenants have high incomes, rather than having an absolute income cap, above which tenancies are not renewed.
- 15.3 An Equalities Impact Assessment (EIA) has been completed on the strategy. Some common issues and concerns identified through the consultation and by the EIA are in the following table. The table also shows how the strategy has been amended to address these concerns.

### Concerns raised about the Draft Tenancy Strategy

Concern	Change made
Fixed term tenancies do not provide enough protection and stability for vulnerable people	Renewal policies should be clearly communicated, so residents do not feel unsettled and can plan for the future. Where tenancies are ending due to under occupation, the reason for this should be communicated, and help provided for vulnerable people to move. Where possible alternative housing should be close to support networks
Impact on communities if tenancies are not renewed	As above
The impact on disabled people, if they have to move due to under occupation, where the property has been adapted for them. It will be unsettling and costly to reinstate disabled adaptations elsewhere	RPs should have regard to this when making decisions about whether to renew a fixed term tenancy at the same address or to offer an alternative smaller property
The impact on elderly and vulnerable peoples' health if they have to move due to under occupation. Women live longer so are likely to be most affected	RPs should have regard to this when making decisions about whether to renew a fixed term tenancy at the same address or to offer an alternative smaller property
Family members of the deceased tenant should be able to succeed to a <b>renewable</b> fixed term tenancy as they may have never lived independently and may be vulnerable	<b>Renewable</b> tenancies are supported where the qualifying family member applying for a discretionary succession has priority to be rehoused under the City Council's Housing Allocation Scheme. This would enable vulnerable people to benefit from a stable home
Vulnerable people may find it difficult to participate in the review meeting. The outcome of the review should not come as a surprise to vulnerable people	The review meeting is expected to be sensitive to the needs of vulnerable people. Where appropriate (and with the tenant's consent) it could be carried out with the attendance of a support worker, friend or representative of the tenant. RP tenancy policies, particularly their renewal criteria, should be communicated throughout the tenancy and in an accessible way
Currently a social housing tenancy can only be repossessed with a court	Fixed term tenancies should only be ended where it is deemed reasonable by the RP to apply for possession and for the court to grant it. Decisions to

### Concerns raised about the Draft Tenancy Strategy

Concern	Change made
order and possession is only granted if it is considered reasonable. This requires high levels of evidence to support the application. Fixed term tenancies could be ended with less evidence	end tenancies should also be made with regard to the views of support agencies working with the household
The fairness of taking into account the income of adult sons and daughters in the household, when assessing if a rent increase should apply, as they may be saving for their own home	Support for only the income of the tenant, their spouse, civil partner or partner being taken into account in any rent increase calculation (the strategy may be amended in this area, subject to the government's Pay to Stay scheme being implemented)
Social housing is for low income people and when income exceeds a certain level, tenancies should not be renewed	None made as there was also support for rent increases, rather than there being an income level above which tenancies are not renewed
The impact of fixed term tenancies on different groups with protected characteristics under equalities legislation is not fully known	All RPs should regularly monitor the impact of their tenancy policies