

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**STRATEGIC HOUSING ADVISORY BOARD**

**19 May 2008**

**Report of the Director of Health and Housing**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 STARTER TENANCIES**

**Summary**

**The purpose of this report is to inform Members of Russet Homes' proposal to introduce Starter Tenancies for new lettings across its stock.**

**1.1 Background**

1.1.1 At the end of last year, the Board of Russet Homes made a decision to explore the introduction of starter tenancies across its stock in line with the Circle Anglia Group policy.

1.1.2 The Housing Corporation Regulatory Code (3.5.2) states that housing associations must provide good quality housing services for residents by offering the most secure form of tenure compatible with the purpose of the housing and sustainability of the community. This allows registered social landlords to adopt a probationary scheme for new assured tenancies as a tool to tackle anti-social behaviour, either in a defined geographical area or across their whole stock. In doing so, landlords must consult their tenants and the local authority and regularly review use of the scheme.

1.1.3 Russet Homes is therefore, seeking the Council's support for this initiative.

1.1.4 Members may wish to note that the Hyde Group is also planning to introduce starter tenancies in Kent next month.

**1.2 Starter Tenancies**

1.2.1 At the present time, the tenancies offered by Russet Homes are Assured or Assured Shorthold for temporary accommodation.

1.2.2 The term 'starter tenancy' covers the use of an Assured Shorthold Tenancy (AST) for an introductory period, normally 12 months, after which the tenancy automatically converts to an Assured Tenancy if the tenant has conducted their tenancy satisfactorily.

- 1.2.3 The major difference between an AST and an Assured Tenancy is that an AST can be ended once the fixed term expires without the need to prove the reasonableness of such action to the County Court. This means that a Section 21 notice under the Housing Act 1988, giving two months notice of determination without grounds would be used. The landlord has an automatic right to repossess the tenancy when it comes to an end providing the correct notice has been served. This contrasts with the much greater statutory protection afforded to Assured Tenants who cannot be evicted unless the landlord can prove to the court that there are grounds for possession. It is therefore essential that adequate protection for tenants is built into the procedures for dealing with such tenancies.
- 1.2.4 The scheme being proposed seeks to protect tenants by introducing tenancy and pre-tenancy advice including information on starter tenancies and the rules under which they are operated, in addition to settling-in visits and at least two follow up visits. The follow up visits will be scheduled for no later than three months after the tenancy commences and again at nine months. Additional visits may be scheduled to monitor any specific problems.
- 1.2.5 In order not to discriminate, it is proposed to implement starter tenancies for all new tenancies (except transferring tenants) across the whole stock (except for supported housing tenants e.g. those in sheltered schemes).

### **1.3 Tackling Anti-Social Behaviour**

- 1.3.1 The Board of Russet Homes is keen to see the Association make all possible efforts to maintain sustainable communities and set the very highest standards of management and in turn, quality of life for its tenants and customers. The initiative is seen as another aspect of Russet's comprehensive approach to tackling anti-social behaviour and can also be viewed as an appropriate response to the challenge to all RSLs to comply with the government's 'Respect' agenda.
- 1.3.2 Experience elsewhere in the Circle Anglia Group shows that the use of starter tenancies significantly reduces the incidence of anti-social behaviour. Good practice developed within the Group focuses on provision of support for residents with starter tenancies and provides a series of checks and balances to ensure that the scheme operates equitably and fairly.
- 1.3.3 Starter tenancies are, therefore, being promoted as a means to tackle anti-social behaviour, by providing new tenants with appropriate support and assistance during the probationary period so that these tenancies are viable in the longer term. This initiative will, therefore, also contribute to the creation of sustainable communities.
- 1.3.4 It should be noted that starter tenancies are not intended to be used to deal with problems of non-payment of rent, unless there are also significant anti-social behaviour issues. This means that Russet will not be able to end a starter tenancy because of arrears without giving adequate grounds for possession. This is a very important aspect to bear in mind as starter tenants will not enjoy the

same statutory protection as in the case of an assured tenancy and it is important that this is not abused in the drive to manage rent arrears. Russet Homes has confirmed that in cases where possession is being sought on the grounds of rent arrears, a notice under Ground 10 of the Housing Act 1988 will be used, and this ground will have to be proved in court if proceedings are commenced.

- 1.3.5 The introduction of starter tenancies should be seen as a positive initiative whereby additional support is provided to help new tenants during their first year of tenancy. The vast majority of tenants should benefit from this more intensive management and support regime during the probationary period and see their tenancies converted to assured tenancies at the end of the first year of occupation. There will, however, be some incidences where enforcement action will be taken for a breach of tenancy i.e. serious anti-social behaviour following service of a notice under Section 21, Housing Act 1988. It is important that these tenants are provided with independent advice and assistance as they will be at risk of losing their homes. One option for example, where intervention has been necessary, is to seek extension of the probationary period for a further 6 months to give more time for support and monitoring.

#### **1.4 Advantages and Disadvantages**

- 1.4.1 The main benefit of a probationary tenancy is that it will encourage Russet Homes to be less risk averse when considering Council nominated applicants for vacancies in their stock because those applicants will not enjoy security of tenure. It will, therefore, be much easier to regain possession of the property if the tenant causes problems. The probationary regime is aligned with a culture of support so that new tenants are provided with help and assistance to enable them to conduct their tenancies in a satisfactory manner. This should result in tenancies being viable in the longer term and thereby contribute to sustainable communities where people put down roots and want to remain.
- 1.4.2 The main disadvantage of moving to a probationary tenancy regime is the loss of security for new tenants during the first year of their tenancy. Whilst the threat of eviction would not be an issue for tenants who behave themselves, starter tenants do not enjoy all of the rights that come with an assured tenancy e.g. they cannot assign their tenancy by mutual exchange.
- 1.4.3 The main issue for the Council is to ensure that the scheme operates in a fair and equitable manner. A key priority for 2008/09 is to reduce the incidence of homelessness so it is important that there are adequate checks and balances in place to ensure that possession action is not taken lightly in the event of a breach of tenancy. It is recommended, therefore, that in the event of Russet needing to seek possession following service of a Section 21 notice, they should contact the housing advice team first to see if any additional support can be offered to the tenant. This is good practice in the prevention of homelessness.

## **1.5 Consultation**

- 1.5.1 Russet is consulting with its tenants and the Council about its proposal to introduce starter tenancies for all new tenants. It is envisaged that subject to support for the proposal and the Council's consent, starter tenancies will be introduced from July onwards.

## **1.6 Legal Implications**

- 1.6.1 Assured shorthold tenants do not enjoy security of tenure. The landlord can regain possession of the property when the fixed term ends provided the required 2 months' notice seeking possession is given.
- 1.6.2 The release of information by Russet Homes is covered by the Data Protection Act 1998. Russet Homes will seek the tenant's consent to release information at the point of tenancy sign up.

## **1.7 Financial and Value for Money Considerations**

- 1.7.1 None arising from this report

## **1.8 Risk Assessment**

- 1.8.1 None arising from this report

## **1.9 Policy Considerations**

- 1.9.1 Adoption of starter tenancies is a change in policy that will affect all new tenants of Russet Homes stock.

## **1.10 Recommendations**

- 1.10.1 CABINET is RECOMMENDED to
- 1.10.2 **AGREE** to support Russet Homes' proposal to introduce starter tenancies across its stock subject to Russet agreeing to contact the Council's housing advice team in cases where possession is being sought following the service of a Section 21 notice.

The Director of Health and Housing confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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