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'Option to Return' Rehousing Policy for Birmingham City Council Regeneration Schemes (The Policy)

1. Introduction

- 1.1 This Option to Return Policy is to be used when regenerating or redeveloping the Council's stock in a particular area, regardless of whether such a scheme requires the making of a compulsory purchase order made under housing or planning powers. It aims to address the needs of the Council's secure tenants and residents impacted by the proposals via a CPO whilst facilitating the development and building works, maintaining stable communities and meeting the needs of individuals who sometimes need to remain in an affected area. It can further create greater community input into the regeneration of their area.
- 1.2 The Policy aims to provide housing regeneration schemes with a clear approach to managing the rehousing process in an efficient, timely and fair manner. It provides an outline of how affected residents will be rehoused in order to deliver the vacant possession of properties subject to housing regeneration schemes at the same time as trying to meet the needs and aspirations of those affected.
- 1.3 This policy is intended to provide guidance in all cases where rehousing of the Council's secure tenants and other qualifying residents is required, ensuring equity and promoting good practice. It provides a set of principles but it is recognised that there may be individual circumstances where flexibility is required.
- 1.4 More detailed site-specific procedures will be developed and put in place for each regeneration scheme through Local Letting Plans. Additionally individual scheme approvals will include considerations in regard to consultation, financial and legal implications and equality impact assessments.
- 1.5 It is intended as a good practice standard for all social housing providers in Birmingham and this policy will be shared with providers through the Housing Birmingham Partnership.
- 1.6 The option to return under this policy will be effective from the point at which the Local Letting Plan for individual schemes is approved by the Council or the Councils decision to proceed with a regeneration scheme, whichever is the earliest.
- 1.7 The policy will apply to all regeneration schemes where there is a rehousing need and subsequent re provision of social rented homes. This will be identified in individual scheme decision reports.

2. Policy statement

- 2.1 To deliver regeneration schemes residents are sometimes compelled to move from their homes because the Council has redevelopment or demolition plans for their homes.
- 2.2 The Policy is to be used where necessary to enable regeneration to occur within the City. It applies when the Council has decided that regeneration, subject to necessary planning consent and other approvals should proceed. It applies to the Council's secure tenants where their properties have been identified for demolition or development to allow the regeneration works to occur. It also applies to residents displaced by a compulsory purchase order made under housing powers or under section 226 of the Town and Country Planning Act 1990, where those residents meet the requirements of section 39 Land Compensation Act 1973.
- 2.3 The Policy provides broad principles that will apply to Council regeneration and redevelopment schemes. Site specific Local Letting Plans will be applied, allowing for sufficient flexibility to adapt a rehousing programme to the requirements and circumstances of individual regeneration schemes.
- 2.4 The term 'secure tenant' applies to both periodic or 'lifetime' secure tenancies and flexible (fixed-term) tenants.
- 2.5 This policy outlines a managed rehousing process, which offers alternative accommodation (where appropriate and in line with the Council's Allocation Scheme) as well as compensating for expenses incurred, disturbance and inconvenience, in line with legal requirements and existing best practice.
- 2.6 Where reference is made to the Council's Allocation Scheme these references should be read as references to the current Allocation Scheme, in line with changes made to the Allocation Scheme from time to time.
- 2.7 This policy will be reviewed regularly, to ensure it is consistent with the Allocation Scheme.

3. Application

The Policy applies to

- 3.1 Secure tenants and their eligible household members who have lived with the tenant 12 months or more prior to the date of the committee decision to proceed with the proposed scheme. Such persons will fall under the provisions of this policy. The definition of eligible household members is provided in the Council's Allocation scheme.
- 3.2 The Land Compensation Act 1973 provides the City Council does have a duty to rehouse owner occupiers and leaseholders where suitable alternative accommodation is not available for them. Therefore Owner occupiers and

private tenants affected by a Compulsory Purchase Order (CPO) for the acquisition of a private property that either wish to purchase or rent on the new development.

- 3.3 The policy does not apply to unauthorised occupants, sub-tenants, lodgers or licensees. Where there are dispersed temporary accommodation tenants within affected BCC properties who wish to remain in the area, consideration for inclusion in the returners list will be given, in line with the allocation policy and this will be captured within individual Local Letting Plans.

4. Loss of entitlement or eligibility to benefit from the policy

There may be circumstances in which a resident, to whom the Policy would otherwise apply, will forfeit the rights and other assistance set out in the Policy, namely:

- 4.1 Does not qualify (apart from as a returner) as determined within the Councils Allocations scheme. This includes evidence of Fraud, unacceptable behaviour, rent arrears etc.
- 4.4 If the Council identifies material discrepancies in information provided, and/or if eligibility or the residence of household members cannot be proved, they will not be included in the application and rehousing decisions. If the Council has reasonable doubts about the validity of information provided in support of an application, that application may be suspended until all necessary investigations have been completed.
- 4.5 The Council will take legal action against secure tenants and household members found to have committed fraud, and they will no longer be considered eligible to be rehoused and supported in accordance with the Policy.
- 4.7 If the Council obtains a possession order against a moving secure tenant, for a breach of tenancy (such as rent arrears and antisocial behaviour) they will no longer be considered eligible to be rehoused and supported in accordance with this Policy.
- 4.8 End of tenancy: If a moving tenant's tenancy ends for any other reason (except where a flexible tenancy reaches the end of its term and is eligible for renewal), for example due to them buying a property, or moving under a mutual exchange arrangement, they will no longer be considered eligible to be rehoused and supported in accordance with this Policy.

5. Rehousing options

- 5.1 The Council is committed to supporting secure tenants to move home if their property will be demolished or subject to a major refurbishment under a regeneration scheme. The following rehousing options are available to affected secure tenants.

- a. Move straight into one of the new homes built. If new homes are built elsewhere on the secure tenant's estate we will aim, if possible, for tenants to move directly into their new home.
- b. Get priority award in line with current allocation policy to bid for properties outside of the defined regeneration area.
- c. If the tenant wants to move to a vacant property advertised through the Councils choice-based lettings scheme they will be given the relevant priority award as determined by the allocation policy.
- d. Accept a rehousing offer but have the option to return to the new homes when construction is complete. If it is not possible to complete the new homes before the secure tenant moves out of their old home, the tenant will be rehoused until construction of their new home is complete.

5.2 Gaining possession

Once the Council has made a decision that the housing regeneration scheme will proceed, it will offer accommodation in line with this policy, the local letting plan and having regard to the current Allocation Scheme.

- ## 5.3 Legal action to gain possession of tenanted properties will be a last resort.
- Where possible the Council will move secure tenants by agreement. However, where this is not possible the Council reserves the right to seek possession through legal process, in which case the applicable criteria for rehousing will be as defined by legislation and not as defined by this Policy.

6. Phased development and rehousing

- 6.1 It is possible that development will happen in phases with some blocks or houses being demolished or redeveloped before others.
- 6.3 The construction phasing of the scheme may mean that secure tenants are unable to move directly into a new home on the estate as new units will not be ready until later in the redevelopment process. In these circumstances secure tenants will have the opportunity to move to another home and register as a returner.
- 6.4 On other schemes where demolition and construction happen in separate phases, we expect that some secure tenants in the latter phases will have access to new homes from earlier phases and will not require temporary rehousing.
- 6.5 An allocation to a returner only applies to the first let's in that where a tenant has moved with the option to return and all dwellings in the redevelopment have been allocated, these properties will not be available for other returners.
- 6.6 The Council is committed to supporting households to move through one of the options stated above on a voluntary basis and by mutual agreement. We will

provide support to help secure tenants to move, through the rehousing process, with as little disruption as possible.

- 6.7 Where tenants refuse the offers of suitable alternative accommodation and in circumstances where rehousing by negotiation and voluntary agreement has not been possible, the Council will exercise its legal right to seek possession to enable the regeneration scheme to progress to completion.
- 6.8 Where tenants wish to move to another part of the council area, the Council will use its reasonable endeavours to assist in finding suitable alternative accommodation in their preferred location. This will be subject to the supply of suitable accommodation in the area of their choice.
- 6.9 Consultation, communication and supporting affected residents
 - 6.9.1 The need for consultation and information gathering at the earliest opportunity is important to understand the numbers and profile/need of affected residents wishing to return and the property. It is also important to open effective communication routes with the Council for those residents impacted.
 - 6.9.2 Through this initial consultation all affected residents will be formally advised in writing where the 'returners' policy applies and will be formally asked to record their interest, or not, and once the decision to proceed is made they will be formally classed as a 'returner' at the rehousing registration stage. Only those residents captured as a returner at this stage will retain their option to return.
 - 6.9.3 By getting an early understanding of the property type requirements of those wishing to remain it may be possible for this to influence the new build property types being replaced and possibly the phasing of the development. However this will need to be balanced against the viability of any scheme design both in financial and physical terms. Individual scheme decisions will need to consider this within respective decision reports.
 - 6.9.4 All eligible affected residents, once registered will be supported in regard to the bidding process.
- 6.10 Suspension of the Right to Buy

The Right to Buy of any affected council housing stock will be suspended from the date an initial demolition notice is served on the tenants concerned as defined in the Housing Act 1985 Section 138 A-C and Schedule 5 paragraph 13 – 16.
- 6.11 The 'Option to Return'

While it is not legally obliged to do so, the Council is committed to helping tenants return to the redeveloped site where they wish to and when there is a suitable property available. This is called the 'Option to Return'.
- 6.12 Each regeneration area will have its own development plan and timetable and this will influence the rehousing options available to tenants. The rehousing

programme will be designed through the Local lettings Plan to allow as many secure tenants as possible to have a single move.

6.13 Types of tenancy

Affected tenants will be given a new tenancy when they are rehoused to alternative permanent accommodation. If the affected tenant holds a lifetime secure tenancy, the new tenancy will be the same or of equivalent security. If the affected household has a flexible secure tenancy, or fixed term tenancy, the new tenancy resulting from rehousing will be granted in accordance with the Council's Tenancy Policy.

6.14 Discretion

A Corporate Director, or duly delegated Council officers, may exercise their discretion in line with the Councils Allocation scheme, to depart from this policy due to the exceptional individual circumstances of the case.

7. **Assessment criteria and eligibility**

- 7.1 This will be in line with the City Councils current Allocation scheme and specific Local Letting Plan for the regeneration project.
- 7.2 Assistance with rehousing will only apply to those identified in Section 3.
- 7.3 Any person claiming assistance and rehousing under the rehousing Policy will need to provide documents to support the identity, relationship to the tenant, and the length of residence of household members. This must be 12 months or more as at the date of the proposed regeneration.
- 7.4 Should a 'matrimonial' dispute arise between joint tenants who are spouses or civil partners (or persons living with the tenant as a spouse or civil partner) and who are subject to rehousing, in the absence of agreement the court will decide who should be granted the secure tenancy. There will be no requirement of the council within this policy to re-house to more than one dwelling.
- 7.5 The size of the alternative accommodation offered will depend upon the number and ages of the individuals who have been determined as part of the eligible household at the time of the Council decision to rehouse. More detail about the Council's policy on property size is given within the Allocation scheme.

8. **Direct offers for returners**

- 8.1 In all circumstances, the Council will make a maximum of 2 direct offers as a returner in line with the current allocation scheme and subject to the availability of properties.
- 8.2 A property allocated to a secure tenant by direct offer will be suitable for their needs and will ordinarily be located on the redeveloped site (in accordance with the option to return). Where it is not possible to provide a suitable property

within the redeveloped area, the secure tenant will be offered a suitable property elsewhere in the City.

- 8.3 After the acceptance or refusal of a direct offers made in line with the Allocations scheme, this will remove the option to return as per this policy.
- 8.4. The Council will notify affected residents as soon as is practically possible where there are no suitable properties to match their eligibility within the regeneration scheme.

9. Local lettings plans - see Appendix 2.

- 9.1 The Housing Allocation Scheme allows local lettings and scheme specific plans to be made. A local lettings plan or scheme specific plan will be set up when this Policy is used in individual schemes, to ensure that households have the opportunity to remain in their community.
- 9.2 Local lettings plans will set out the rehousing proposals and priorities for the newly developed homes and will identify a priority cascade within each scheme under which all new social rent units will be let.
- 9.3 Priority for new properties for returners will be based around who has held tenancies within the regeneration area the longest.
- 9.4 All eligible affected residents, once registered will be supported in regard to the bidding process.

10. Financial considerations and compensation

- 10.1 For residential properties two forms of payment will be payable to tenants under this policy:
- Home Loss Payment
 - Disturbance Payment
- 10.2 Tenants are entitled to Home Loss Payments and Disturbance Payments once they are subject to the application of this Policy and there is appropriate authority in place to commence the rehousing process and award payments.
- 10.3 Therefore, tenants who pursue rehousing before they are subject to the above will not be eligible for Home Loss Payments or Disturbance Payments.
- 10.4 The award of statutory home loss and disturbance compensation will be in line with Sections 29-37 of Land Compensation Act 1973 and the relevant Council policy in this regard.
- 10.5 In cases where the tenant has chosen to move twice there will only be 1 award of statutory home loss. Disturbance compensation claims will be administered by the Councils surveyors as currently.
- 10.6 Affordability assessment

Each scheme proposal will need to consider and include an affordability impact assessment to capture any associated costs and demonstrate affordability in regard to implementing this policy within each development.

11. Equal opportunities

- 11.1 An equality impact assessment, specific to the area of regeneration, will need to be completed when using this Policy as part of delivering a regeneration scheme. This will be done through the regeneration scheme decision making process for individual schemes and via the Local Letting Plan.

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