

Tenancy Strategy

2019-24

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1 INTRODUCTION

Section 150 of the Localism Act 2011 (the Act) provides that each Local Authority in England must prepare and publish a tenancy strategy, setting out the matters to which the Registered Providers of Social Housing (RPs) for its District are to have regard, in formulating policies relating to:

- The kinds of tenancies they grant;
- The circumstances in which they will grant a tenancy of a particular kind
- Where they grant tenancies for a term certain, the lengths of the terms; and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

The Act does not affect the rights of existing RP tenants but does allow for more flexible arrangements for new tenants. RPs are now able to grant tenancies for a fixed length of time.

The minimum length of a new tenancy will be two years in exceptional circumstances with five years or more being the norm. There is no upper limit on the length of tenancy and RPs can still offer lifetime tenancies if they wish. The Government believes that by providing this flexibility in relation to the length of a tenancy, RPs will be able to manage their social homes more effectively and fairly and deliver better results for local communities.

The term ‘fixed term tenancies’ used in this strategy applies to all tenancies that are offered for a specified period of time, as opposed to traditional ‘lifetime tenancies.’

This Strategy also takes account Government changes in respect of the new rent model for affordable housing and the strengthened powers for Councils to discharge their duty to homeless households by securing housing in the private sector.

2 BACKGROUND & CONTEXT

The Council is not a stock owning authority but is the strategic housing authority for the District of Rochford. As a strategic housing authority, the Council sets the framework for the delivery of housing services through its various housing strategies and delivery plans. The Council works in partnership with providers of social housing, known as Registered Providers, to provide affordable housing for those in housing need. There are some 7 Registered Providers (RP), in the District with general needs housing. The largest RP is Sanctuary Housing Association (SHA) who own close to 2000 dwellings in the District.

The Council's former housing stock is now owned and managed by SHA. The rest of the RPs owning less than 150 units each.

The Localism Act 2011 required all strategic housing authorities to adopt a tenancy strategy to set out the matters to which Registered Providers in their Borough must have regard when developing their own tenancy policies. The Act further stated that each Registered Provider must adopt a tenancy policy to comply with regulatory requirements.

This strategy provides an overview of the general approach the Council would like RPs to take when preparing their Tenancy Policies.

The Council is aware of the requirement set out in the Localism Act that in preparing this Strategy i.e. it must have regard to its current Housing Allocation scheme and its current Homelessness assessment process.

The Strategy does not however, include guidance as to how social housing should be allocated and therefore does not impact on the existing allocations policy. Nor does it change the Council's strategic aim of ensuring that the needs of homeless households are met through the provision of good quality, appropriate housing.

Previously regulation meant that RPs generally could not offer fixed term tenancies at a social rent and effectively required them to grant 'lifetime tenancies' to most new tenants in general needs, social rent housing. However, a revision to the Tenancy Standard made in April 2011 allows RPs to now offer fixed term tenancies at an affordable rent as part of the contract with Homes England, to deliver new homes under the Affordable Homes Programme.

The Government has made it clear that it wants Local Authorities to exercise strategic influence over how RPs will implement the tenancy reforms and that they will give 'due regard' to the objectives and principles set out in this Strategy.

The evidence base in relation to the need for affordable housing is contained in the South Essex Strategic Housing Market Assessment and key findings are reflected in the Council's LDF Core Strategy and Housing & Homeless Strategy. RPs are expected to have due regard to these documents when framing their own policies and be able to demonstrate that their tenancy policy objectives are mutually compatible and supportive of the Council's strategic objectives. Strategic compatibility will be a factor that the Council will take into consideration if it is asked by a RP to provide strategic support for a proposed development.

The Council believes that tenancy flexibility can enable RPs to help more people move on from such housing once they are able to secure and maintain an alternative housing option, such as full home ownership, shared ownership or the private rented housing. This should help increase the turnover of existing social housing and assist those families in genuine housing need, at a time when there is an identified shortage of affordable housing.

The flexibility to offer fixed term tenancies also provides RPs with the opportunity to use their stock most effectively by reducing under occupation and making best use of existing stock, which better meets the needs of their tenants.

3 TENURE REFORM

3.1 Tenancy Policies

Affordable housing no longer must be let on a tenancy for life. RPs can choose to let a property on a fixed term. There are now a range of options available when issuing such tenancies in addition to the periodic (lifetime) tenancies traditionally issued. The minimum tenancy term that can be offered is 2 years, but the Government has indicated that this should only be used in exceptional circumstances and that it would expect the normal minimum duration to be 5 years.

The Council expects every RP operating in the District to publish clear and transparent Tenancy Policies covering:

- The kinds of tenancies they will grant;
- Where they grant tenancies for a fixed term, the length of those terms;
- The circumstances under which they will grant tenancies of a particular type;
- The circumstances under which a tenancy may or may not be reissued at the end of the fixed term, in the same property or in a different property;
- The way in which a tenant or prospective tenant may appeal or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on expiry of the fixed term;
- Their policy on taking into account the needs of those who are vulnerable, by reason of age, disability or illness, and households with children, including through tenancies which provide a reasonable degree of stability; and
- The advice and assistance they will give to tenants on finding alternative accommodation in the event they decide not to grant a further tenancy.

In respect of the above requirements the Council's strategic position is as follows:

Types of tenancy and tenancy length

3.2 Starter Tenancies

The Council supports the use of probationary ('starter') tenancies prior to issuing a fixed term tenancy. The Council also encourages RPs to extend starter tenancies where there are continuing doubts about the conduct of a tenant, or in cases of anti-social behaviour or rent arrears.

3.3 Fixed Term Tenancies

Two-year tenancies should only be issued in exceptional circumstances for example where there is a strong likelihood that the tenant will only require the tenancy for a short duration or where the property is only available for a short, fixed term.

The Council believes that the normal minimum tenancy term that should be provided by RPs in the Rochford District is 5 years. Following consultation in 2019 with the Registered Providers, it is noted that a number are now withdrawing this type of tenancy.

The use of short fixed term tenancies may result in increased costs for RPs due to additional administration related to tenancy reviews and increased voids and it therefore recognises that RPs may want to minimize this by offering longer tenancies. However, this needs to be balanced against the need to make best use of the housing stock and the Council would expect the rationale for adopting a particular approach to be clearly set out in the RP's tenancy policies.

RPs are expected to monitor the impact of fixed term tenancies on local communities and to identify to the Council any potential situations where their use appears to be having a detrimental impact on the sustainability and cohesiveness of a community. The Council will be prepared to consider the implementation of an agreed localised lettings plan to address any such issues.

3.4 Lifetime Tenancies

The provision of lifetime tenancies will be particularly appropriate for some households. This includes households where the circumstances which led to them being granted a tenancy are unlikely to change over time. Examples include people with long term health conditions such as a learning disabilities and older people living in specially designated housing such as sheltered or extra care housing.

3.5 Circumstances when different types of tenancy could be granted

Tenancy Policies developed by RPs should clearly set out the circumstances under which different types of tenancy are to be granted and must clearly support the strategic objectives of this Strategy. Tenancy Policies should be reviewed on a regular basis and must meet the requirements of national tenancy standards produced by the relevant regulator.

3.6 Circumstances when a tenancy may or may not be reissued

Whether a tenant will be able to remain in social housing at the end of the fixed tenancy will depend on the landlord's tenancy policy. RPs are expected to review a fixed term tenancy six months before it is due to end to decide whether it should be renewed and must publish clear guidance on the process and assessment criteria to be used in deciding if the tenancy should be renewed.

Any of the following could be acceptable reasons to end a fixed term tenancy:

- Under-occupation (the property is larger than reasonably required);
- A financial change in circumstance identifies that the tenant can meet their own housing needs without subsidy;
- Adapted property where the tenant no longer needs the adaptation; and
- The tenant has acquired another property.

Where there have been no material changes in the tenant's circumstances the Council would expect RPs to grant a further tenancy.

NB: The Council recognises concerns relating to the possible 'residualisation' of social housing in the District and potential disincentives to aspiration that might arise from the use of income related criteria and will therefore keep this matter under review.

3.7 Appeals and complaints

RPs should have procedure mechanisms for tenants (or prospective tenants) who wish to appeal/complain about the type or length of tenancy offered. This system should also allow tenants to appeal against decisions not to grant another tenancy on the expiry of the fixed term.

3.8 Consider the needs of vulnerable, older people and children

As referred to above, the Council's expectation is that people with enduring, long term health conditions such as a learning difficulty and older people living in specially designated housing (such as sheltered housing) will be offered lifetime tenancies. When developing their policies, RPs should also consider the potential impact of fixed term tenancies on children within a household and be able to demonstrate how any impact would be mitigated.

Policies must be supported by a robust equality impact assessment a copy of which should be provided to the Council.

3.9 Advice and assistance given to tenants if their tenancy is not renewed

The Council expects RPs to be proactive and take a person-centred approach in helping households take the steps that will help them to secure alternative accommodation at the end of their fixed term tenancy and work with the Council to avoid homelessness. This may include the promotion of skills related designed to help people secure employment during their tenancy period as well as a range of advice services in the lead up to a tenancy review. These may include:

- Advice on low-cost home ownership options and other alternative affordable housing tenures;
- Specialist housing and or welfare-related advice and/or signposting to appropriate advice services;
- Advice on renting in the private rented sector and assistance in identifying and securing a suitable property (this may involve assistance with a deposit where necessary);
- RPs are expected to conduct reviews in partnership with other relevant agencies (e.g. health and social care agencies) and to notify the Council and other appropriate agencies, at the earliest opportunity, where a decision is taken not to renew a tenancy; and
- The Council does not expect that a decision not to renew a tenancy will result in a homelessness referral being made to the Council.

3.10 Local Lettings Plans

The Council believes that local lettings plans can play a role in helping to achieve balanced, sustainable communities. However, they should only be used where it can be clearly demonstrated they will have a positive community benefit and should be subject to regular review.

4 AFFORDABLE RENTED HOUSING

4.1 Background

As well as tenure reform, the Government has reformed the way in which the development of new affordable homes is funded and has introduced the 'affordable rent' product as its preferred model for new social housing provision. RPs now have the flexibility to charge rents of up to 80% of local market rents for new homes and a proportion of re-lets, but only where this is part of their agreement with Government to build new homes. The ceiling of 80% is inclusive of service charges.

Whenever an affordable rented home is let either by granting a new tenancy or renewing an existing one, RPs are required to rebase the rent, to ensure that the rent remains no more than 80% of the relevant market rent.

The Government's intended policy objectives in this respect are:

- To maximise the delivery of new social housing, making the best possible use of public subsidy and the existing social housing stock over the next Spending Review period, and matching delivery of new build to areas of housing need; and
- To provide an offer which is more diverse for the range of people accessing social housing, providing alternatives to traditional social rent and making the provision of social housing more flexible.

Planning Policy Statement 3 was revised on 9 June 2011 to include the following definition of Affordable Rent:

Affordable rented housing is:

- Rented housing let by RPs to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent.

The affordable rent model is intended to enable RPs to secure additional financial capacity for the provision of new homes.

While initiatives aimed at increasing the supply of affordable homes are to be welcomed it is important that we ensure the flexibilities are used in a way that benefits our local communities and we therefore believe it is appropriate for us to set out guidelines as to how we would expect them to be used.

It should also be noted that RPs are free to undertake the delivery of other types of social housing or market housing, funded entirely from their own resources (without conversion of re-lets), without entering into an agreement with the Home England.

The Council expects RPs to comply with the Tenancy Standard and use a valuation of market rent in accordance with a Royal Institute of Chartered Surveyors (RICS) recognised method so as to ensure a consistent and transparent approach to the valuation of market rents.

4.2 Affordable Housing Supply

The Council recognises that RPs who build new social homes with grant assistance provided by the HCA will be expected to let these homes at an affordable rent. However, they do have discretion over the number of existing homes that will be converted to affordable rent when they become available for re-letting.

Affordable rented housing can have a role to play in meeting housing need within the District but there is a need to ensure that there is an adequate supply of housing that is affordable for people on the lowest incomes, who are unable to access market housing and may not be able to afford affordable rented housing. Consequently, while we accept that RPs will want to develop Affordable Rent properties, the continued provision of new Social Rent homes on sites where viability allows it, will also be strongly encouraged.

The additional borrowing capacity RPs will benefit from via conversions to affordable rent and shared ownership should help to maintain the general supply of affordable homes but the Council is aware that this funding is not ring fenced for use in those areas where homes are converted.

There has been a relatively low level of affordable housing delivery in the District in recent years a problem that has been exacerbated by other housing market difficulties such as high private sector rent and high property prices. Consequently, in order to give strategic housing support to a conversion policy the Council would wish to see a commitment from RPs that a reasonable level of local reinvestment would occur.

4.3 Affordability

Evidence suggests that affordable rent levels in many parts of the District would fall within the Local Housing Allowance (LHA) rate. However, the Council recognises that market rent levels have risen considerably and can vary significantly across the District and that in higher value areas, there is the possibility that the affordable rent for some property types could exceed the LHA rate. Given these local market variations we would expect RPs to discuss development proposals with the Council at an early stage so that proper consideration can be given to the potential impact of charging affordable rents on a scheme by scheme basis.

The Council's view is that wherever possible affordable rent levels should not exceed LHA rates.

The need to provide access to affordable housing across the whole of the District is also an important consideration as far as the conversion of properties from social rent to affordable rent or shared ownership is concerned., but are rebased upon re-let, implying that average affordable rents for a cohort of properties should ultimately, in the long-run, increase at the rate of market rent inflation.

The Council wants to avoid the possibility of high levels of conversions occurring in particular parts of the District thereby potentially restricting access to affordable housing by people on lower incomes and limiting opportunities available for existing social rented tenants to transfer to areas of their choice.

RPs should notify the Council of their intentions with regard to rent conversions within the District.

4.4 House Types

The Council wants to avoid the possibility that the relative shortage of certain social rent house types such as larger family homes is made worse by their conversion to affordable rent or shared ownership. Evidence shows that the difference between social rent and affordable rent levels increases in accordance with the number of bedrooms and that in higher value areas, the conversion of 4 bed houses to affordable rent may cause affordability problems for households receiving full housing benefit once the £500pw benefit cap is introduced. Consequently, the Council does not expect 4 bed houses to be converted to affordable rent unless it can be clearly demonstrated that it will not have a detrimental impact on the availability and affordability of such homes for people in housing need.

4.5 Welfare Reform

The Government introduction of universal credit system and housing benefit reforms which cap benefit and reduce benefit paid to some under occupying households. Whilst a full roll out of the scheme in the district is yet to be completed. The Council therefore expects RPs to be mindful of the on going impact of the proposed changes and the need to help under occupying tenants affected, move to smaller housing where they wish to do so.

4.6 Mobility

The Council recognises that the tenancy rights protection given to tenants looking to transfer to another social rent property does not apply to affordable rent properties and that this has the potential to discourage tenant mobility. We therefore believe that RPs should offer transferring tenants the same type of tenancy they already have although at the higher affordable rent level.

There is also a potential work disincentive for those households in receipt of housing benefit living in an affordable rent property. The Council therefore expects RPs to play a proactive role in supporting skills and training initiatives which help tenants to access employment and increase their housing options.

5 HOMELESSNESS

The Council continues to have a duty to secure accommodation for homeless people who are eligible for assistance, in priority need and unintentionally homeless.

However, under the previous rules, people who became homeless were able to refuse offers of accommodation in the private rented sector and wait for a suitable Affordable rent home to be offered to them. This can result in households being temporarily housed in expensive temporary accommodation until such a home becomes available.

The Localism Act and Homeless Reduction Act have allowed Local Authorities to meet their homelessness duty by providing good quality private rented homes. Government believes that this option could provide an appropriate solution for people experiencing a homelessness crisis, at the same time as freeing up social homes for people in real need on the waiting list.

While there is no certainty that these changes will result in more homeless households being rehoused in the private rented sector, the Council welcomes it as an additional tool we can use to tackle and prevent homelessness. The Council will seek to ensure that any offer of private rented housing is appropriate to the needs of the household and the minimum length of any tenancy will be 12 months.

6 ANNUAL REVIEW

The Council will wish to monitor the effectiveness and extent to which the new provisions are implemented. This will include monitoring:

- The number of fixed term tenancies issued;
- Reasons for non-renewal of tenancies;
- The number of under occupying households rehoused;
- The number and location of social rented homes converted to affordable rent; and
- The number of homeless households rehoused in the private sector.

It will also consider changes in market conditions and the impact this may have on affordable rent levels and housing affordability as well as the impact of welfare benefit changes, particularly housing benefit.

This monitoring and review will inform future changes to the strategy and we will expect RPs to assist with this process by providing statistical information when requested.

6 WHERE TENANCY POLICIES CAN BE FOUND

The chart below highlights where readers can find further details of RPs who are active in the District and where they request a copy of their policies.

RP	Website
CHP	www.chp.org.uk
Circle Anglia	www.circleanglia.org/south-anglia/
Estuary Housing Association	www.estuary.co.uk
Genesis	www.genesisha.org.uk/
Habinteg	www.habinteg.org.uk
Hanover Housing	www.hanover.org.uk
Hastoe Housing Association	www.hastoe.com
Housing 21	www.housing21.co.uk
London & Quadrant	www.lqgroup.org.uk
Moat Housing Association	www.moat.co.uk
Rochford Housing Association	www.rochfordhousing.co.uk/
Sanctuary Housing	www.sanctuary-housing.co.uk
Swan Housing Association	www.swan.org.uk