

NORTH HERTFORDSHIRE DISTRICT COUNCIL TENANCY STRATEGY

1. Introduction

- 1.1 North Hertfordshire District Council, as the local housing authority, has a duty to prepare and publish a Tenancy Strategy¹.
- 1.2 The purpose of the Tenancy Strategy is to set out the high level objectives which registered providers of social housing (RPs) operating in the district need to have regard to in formulating their own policies on tenancies. Specifically, the Tenancy Strategy provides guidance to RPs relating to:
 - the types of tenancies they will grant;
 - the circumstances in which different types of tenancies will be granted;
 - where fixed-term tenancies are granted, the length of the fixed term and the circumstances in which a further tenancy will be granted when the fixed term expires.
- 1.3 This is our second published Tenancy Strategy and replaces our 2012 Tenancy Strategy. The Strategy has been developed in conjunction with our Housing Strategy 2019-2024 and supports and contributes towards the priorities contained therein, specifically:
 - maximising the delivery of affordable housing to meet local needs
 - providing genuinely affordable homes
 - ensuring affordable housing is allocated to those in most need
 - supporting the prevention and management of homelessness
- 1.4 The Tenancy Strategy also takes into consideration and supports: the North Hertfordshire Common Housing Allocation Scheme; our proposed submission Local Plan for 2011-2031; and North Hertfordshire Partnership's Sustainable Community Strategy 2009-2021.
- 1.5 The Council recognises that we need to work with local RPs and other partners to achieve our objectives. We are therefore keen to promote open and early dialogue about any issues arising from this Strategy.
- 1.6 We will review this Tenancy Strategy on an annual basis or in response to legislative or policy changes.

¹ Localism Act 2011 section 150.

2. Background

Housing tenure reform

- 2.1 The Localism Act 2011 introduced significant reform to social housing tenure, introducing the ability for registered providers, should they choose, to offer tenancies for a fixed term to new tenants with effect from 1st April 2012. The Act also introduced an Affordable Rent model which enables providers to set rent at up to 80% of local market rents on both a proportion of their existing re-lets and on new build properties.
- 2.2 The stated aims of the reforms were to enable more targeted use of the available social housing stock to help households that are most in need and to increase the funding available for new affordable housing. Over- and under-occupation in particular were seen to be persistent problems that could be eased by allowing RPs to offer shorter tenancies to households that may be able to move on in the future through other housing options, thus freeing up more social housing.
- 2.3 Prior to this reform, registered providers were required to offer tenants the “most secure” form of tenancy, meaning the majority of tenants were offered assured tenancies, in effect lifetime tenancies. The revised regulatory framework for social housing brought about by the Localism Act removes this requirement, replacing it with a requirement that RPs offer tenancies or terms of occupation which, “are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock².”
- 2.4 It is important to note that the regulatory framework also requires that registered providers “shall grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 came into force, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord. (This requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms)”.
- 2.5 Registered providers are required to publish a tenancy policy which sets out their approach to specified areas of tenancy management³.

3. Use of fixed-term tenancies

- 3.1 The Council recognises that fixed-term tenancies can help to ensure that affordable housing is available for those who need it most. This is an important consideration in areas such as North Herts where the private housing sector is unaffordable for many and the demand for affordable housing is consistently high. Our Housing Strategy provides more detail about the circumstances in our district.
- 3.2 However the Council firmly believes that these considerations need to be balanced against the benefits that security of tenure and stability provide for individual households, particularly our most vulnerable residents. These enable individuals to put down roots and create strong, stable and supportive communities.

² Tenancy Standard from the Regulator of Social Housing’s Consumer standards.

³ Ibid.

3.3 The use of fixed-term tenancies can also have negative consequences beyond impacts on the individual and, crucially, may not be an effective tool for achieving their desired policy outcomes:

- the management of fixed-term tenancies (specifically tenancy reviews) imposes significant resource pressures on providers and can be a crude tool as renewal dates will rarely coincide with a change in tenants' circumstances. A government assessment suggests that tenure reform will not significantly increase the number of vacant homes available until the late 2030s⁴;
- making tenure dependent on proof of continuing need for social housing could disincentivise tenants from seeking or taking up work;
- the use of fixed-term tenancies could undermine the sustainability of communities by increasing the transience and social exclusion of neighbourhoods, leading to increased pressure on housing management resources, to deal with neighbour disputes for example; and
- fixed-term tenancies can act as a barrier (actual or perceived) to mobility as people do not want to lose security of tenure.

3.4 Indeed, as our Housing Strategy references, there appears to be a new-found recognition within government of the key role that affordable housing has to play in building strong communities⁵. Within the registered provider sector too, there are moves away from the use of fixed-term tenancies with research finding that they have not achieved their desired policy outcomes⁶.

Specific recommendations for registered providers

3.5 The Council recommends that fixed-term tenancies are not used at all for the following groups:

- households requiring sheltered or flexicare accommodation;
- households requiring supported accommodation;
- households containing someone with a life-long, serious and life affecting condition; or
- households containing someone who is vulnerable owing to some other reason and whose long-term health or safety could be at risk if they are moved from their home and established support networks.

⁴ Shelter (2012) *Local decisions on tenure reform: Local Tenancy Strategies and the new role of local housing authorities in leading tenure policy*.

⁵ Ministry of Housing (2018) Communities & Local Government, *A new deal for social housing*.

⁶ Research conducted by L&Q housing association, as reported by Inside Housing on 21st September 2018.

3.6 Where fixed-term tenancies are used:

- tenancies must ordinarily be for a minimum of five years, in addition to any probationary tenancy period (as per the regulatory framework);
- tenancies of less than five years should only be used in exceptional circumstances which are detailed in the provider's Tenancy Policy;
- longer fixed-term tenancies should ordinarily be offered to families with dependent children, with a minimum term of 10 years;
- longer fixed-term tenancies should also be considered for older households (aged over 65) and vulnerable tenants who would benefit from the increased stability offered; and
- all tenants should be given clear information on the type of tenancy being issued to them, the reasons for offering that tenancy and the process for reviewing the tenancy.

4. Reviewing fixed term tenancies

- 4.1 The process of review can be an anxious one for tenants and all efforts should be made as far as possible to reduce the uncertainty around the process. Registered providers' tenancy policies should contain clear details of how frequently a fixed-term tenancy will be reviewed and the factors that will be considered when deciding whether a tenancy will be renewed.
- 4.2 As a general principle, the Council would expect that most fixed-term tenancies will be renewed, other than in exceptional cases where a tenant's circumstances have changed significantly or where there have been significant tenancy breaches.
- 4.3 We do not support the automatic ending of tenancies solely on the basis of increased household income. This can lead to perverse disincentives to work and progression and puts social housing in danger of becoming more residualised. We would recommend that the tenancy review should also take into account a balance of factors including family circumstances and community contribution. Where alternative housing options, such as shared ownership, are discussed, we would expect this to be supported by a thorough affordability assessment.
- 4.4 The Council recognises that under-occupation is not consistent with the efficient use of the district's stock of affordable housing stock. It is estimated that just over half of the district's affordable housing is under-occupied, most commonly by couples (both of pensionable age and younger) who no longer have children living with them⁷.
- 4.5 The use of fixed-term tenancies can help to reduce under-occupation. However the mismatch between affordable housing stock in the district (over half of general needs stock has three or more bedrooms) and demand (87% of households on the Common Housing Register have a need for properties of two bedrooms or fewer) means that tackling under-occupation will lead to even more pressure on smaller properties. The Council is therefore of the opinion that ending fixed-term tenancies due to under-occupation is not desirable but we recognise that this is an area that we need to work in partnership with local providers to address.

⁷ Anna Clarke et al (2011) *Under-occupation in North Hertfordshire*.

- 4.6 Fixed-term tenancies should not generally be used for housing management purposes and should not be used as an alternative to existing mechanisms to deal with issues such as anti-social behaviour and rent arrears. We recommend that registered providers should invest resources in providing suitable tenancy sustainment services to help vulnerable tenants and those who need additional support. This is particularly important as Universal Credit is rolled out fully in the district, given the reported detrimental impacts its introduction has had on rent arrears elsewhere in the country.
- 4.7 North Herts is a predominantly rural district and consideration needs to be given to maintaining the vitality of these areas and ensuring that young people in particular are able to remain in their local area. We would encourage registered providers to be sensitive to the particular needs of our rural communities when making use of fixed-term tenancies as affordable properties are typically scarce in these areas and the termination of a tenancy may force a household to move out of the community due to lack of alternative accommodation.

Specific recommendations for registered providers

- 4.8 In all cases:
- registered providers should provide written notice stating whether they propose to grant another tenancy or not (as per the regulations), at least six months before the end of the tenancy;
 - tenancy reviews should consider the individual circumstances of the household, including any recommendations from the Council and other partner organisations. The outcome should not be based solely on factors such as household income; and
 - registered providers should monitor – and share this information with the Council - the number of tenancies which are not renewed, the reasons for the termination of tenancy and the characteristics of the households affected.
- 4.9 And, where a tenancy is not renewed:
- tenants should be informed in writing of the reasons for ending the tenancy and information given on how to make an appeal;
 - RPs shall offer reasonable advice and assistance where the tenancy ends (as per regulations);
 - RPs should inform the Council's Housing Options team, in line with existing protocols and the National Housing Federation's Commitment to Refer; and
 - where a tenancy is to be terminated without a breach of tenancy, reasonable efforts should be made to offer suitable other accommodation and consideration should be given to extending the tenancy until alternative suitable accommodation can be found.

5. Starter/probationary tenancies

- 5.1 The Council supports the considered use of probationary, or starter tenancies, to assist in a coordinated approach in the management of nuisance and/or anti-social behaviour, where there are concerns about a potential tenant's past behaviour. Such tenancies should be for a maximum of 12 months, or a maximum of 18 months where reasons for extending the probationary period have been given and where the tenant has the opportunity to request a review.

6. Affordable rent

- 6.1 Our Housing Strategy for the district establishes as a priority, ensuring that housing is genuinely affordable for local residents.
- 6.2 For many households registered for affordable housing in the district, social rented housing is the only sustainable affordable option. Housing let at affordable rents is also affordable for households in receipt of benefit *as long as* rent levels are set below Local Housing Allowance levels. It could, however, be argued that such an approach encourages the entrenchment of benefit dependency, with its associated uncertainty stemming from potential future policy changes and exposure to any disincentives to work and progression that may be inherent in the benefit system.
- 6.3 The Council therefore continues to propose a cautious approach to the conversion of existing social rented properties to affordable rent. Registered providers should also be mindful of impacts on the mobility of tenants if the affordable housing stock becomes increasingly mixed with properties let under different rent models and tenure lengths. However, we recognise the need for housing providers to innovate and welcome early opportunities to be involved in discussions about the development of different affordable housing products to meet local need.
- 6.4 The Council also recognises that the affordable rent model is essential to securing the delivery of new homes to meet the district's housing needs, as evidenced in our Strategic Housing Market Assessment⁸ (SHMA). The Council will support new affordable rented housing where it is appropriate and affordable to the local community.
- 6.5 Delivery of new rented housing to meet affordable housing targets in the Local Plan will be met through a mix of properties let at social and affordable rents, appropriate to the individual site. However, the SHMA stipulates that the use of affordable rent is not appropriate for all properties due to the high cost of private sector housing in the district (see our Housing Strategy for more information). In particular, the SHMA advises that affordability is a particular concern for larger properties let at affordable rent levels and proposes that affordable rent should be set at no more than 70% of market rents for three bedroom properties and should not be used at all for properties of four bedrooms or more.

Specific recommendations for registered providers

- 6.6 We recommend that:

⁸ ORS, Stevenage and North Hertfordshire Strategic Housing Market Assessment Volume 2, August 2016.

- affordable rents should not exceed the Local Housing Allowance rate;
- affordable rents should be set at 70% for three bedroom properties;
- larger properties with four or more bedrooms should only be let at social rent;
- scarce properties that meet specific needs such as adapted units, supported housing, sheltered housing and rural properties should not normally be converted to affordable rent;
- registered providers should consult with the Council at an early stage on plans to convert existing social rented properties to affordable rent; and
- the Council would wish to see any extra income received through conversions in the district used to invest in new supply in North Herts.