

TENANCY STRATEGY

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Draft document

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Contents

1. Introduction
2. Background
3. Aims and objectives
4. Scope
5. Local Context for Housing in South Ribble
6. Types of tenancy to be granted
7. The circumstances for granting a certain tenancy
8. Fixed term tenancies
9. The circumstances on the ending of an existing tenancy.
10. Tenancy policy considerations
11. Reviews
12. Monitoring

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Introduction

The Localism Act 2011 places a new duty on local housing authorities to prepare and publish a tenancy strategy.

The tenancy strategy must set out the matters which Registered Providers (RPs) of social housing are to have regard to when formulating their own policies on tenancies and must be published by 15th January 2013.

This strategy links into the broad objectives agreed in the Lancashire housing context statement and takes account of the prevention of homelessness strategy and relates to the current allocations policy.

The strategy has been developed in consultation with Registered Providers operating in the area and a range of stakeholders.

Background

The Localism Act 2011 introduced reforms to social housing tenure offering more choices to councils and Registered Providers as landlords about how they manage their homes in the future

- Registered Providers can introduce an affordable rent product: This means rents can be charged at up to 80% of local market rents, with the opportunity to offer flexible/fixed term tenancies as opposed to the usual lifetime tenancies associated with social rent where rents are guideline target rents determined through the national rent regime
- Registered Providers can convert a number of existing social rented homes when they become empty to the affordable rent product
- Registered Providers are no longer required to let general needs homes on the most secure form of tenure possible, (lifetime tenancies) they can now offer tenancies for shorter terms (flexible/fixed term tenancies).

In South Ribble Registered Providers have for general lets offered assured tenancies (lifetime tenancies) after a probationary period. These changes will now allow them to grant fixed term tenancies when offering affordable rents.

At the time of producing this strategy Registered Providers operating in the area have signed agreements for development funding with the Homes and Communities Agency (HCA) to deliver affordable housing until 2015. This will provide them with the opportunity to use the new tenancy model.

Aims and Objectives

The aim of the strategy is to set out clear expectations for Registered Providers operating in the borough and to influence the provision and delivery of housing in South Ribble, to achieve the following objectives:

- To make the best use of existing and future social and affordable housing stock in South Ribble and to ensure it effectively addresses housing need
- To ensure that social and affordable housing contributes to sustainable communities
- To ensure that use of fixed term tenancies do not increase the number of households threatened with homelessness in the borough
- To fulfil legal duties as set out in the Localism Act 2011 and in the Housing Act 1996 Part V1 & V11 as amended by the Homelessness Act 2002

Scope

To set out the matters which Registered Providers are to have regard to when formulating policies on social housing tenancies including:

- A. The types 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 fixed term, the length of the terms
- D. The circumstances under which a further tenancy will be granted on the ending of an existing tenancy.

The local context for social housing in South Ribble

As of the 1st April 2012, the total number of social rented housing stock in South Ribble was 4992 - this is 10.5% of the overall housing provision in the area and is significantly lower than the 28.7% national average.

The council does not own or manage any of its own social rented stock as it was transferred through a Large Scale Voluntary Transfer (LSVT) to New Progress Housing Association in 1994.

The current planning targets for delivery of homes is 417 per year of which 30% should be affordable as defined through the national policy framework and can include social rented affordable rented and intermediate housing. The most extensive current re development taking place is at the Maltings in Penwortham which will reduce the availability of social rented stock in this area.

Most of the social housing in South Ribble is owned and managed by six main providers and this Tenancy strategy is intended for those Registered Providers who currently operate or are intending to operate as traditional Housing Associations in the borough.

The current main six housing associations are:

New Progress, Accent foundation, Contour (Symphony) Harvest Group (Your Place) Great Places, Places for People

All these providers let their social rented properties in South Ribble through the Select Move Partnership using a shared Allocations Policy agreed with Preston and Chorley and other housing association providers, to ensure fairness and transparency.

As partners of the scheme the council would expect properties let via Select Move that are at an affordable rent and or on a fixed term tenancy will be identified on advertising, along with the length of the fixed term.

A) Types of tenancy to be granted

Policy considerations

Lifetime tenancies

South Ribble Council will continue to support the social housing regulatory standard followed by Registered Providers in that the council would expect providers when framing policy to continue to “offer the most secure form of tenure”, that makes the best use of the stock, meets the needs of the individual household, and ensures sustainability of the community.

New lets

It is anticipated that lets on new tenancies will be offered at a social rent level unless it forms part of the HCA contract delivery for affordable homes.

However when new build properties are let and the agreed rent model is affordable it is expected that the tenancy type will remain as a lifetime assured tenancy without the requirement to offer as a fixed term tenancy.

Justification

Taking account of the role of social rented housing in maintaining sustainable communities it is important to the council that providers in the borough continue to grant the most secure form of tenure, and that this is reflected in their tenancy policies

Consultation with the main providers in South Ribble indicates that the majority intend to continue to offer a lifetime tenancy following an introductory/starter tenancy.

Conversions from social rent

When delivering homes as part of the HCA agreement it is important that policies:

- Identify in which areas and circumstances a property may be converted to the affordable rent model and that the tenancy type will remain as a lifetime secure/assured tenancy.

- Ensure that social rented homes developed and subject to section 106 agreements will not be changed to an affordable rent model.
- Indicate that there will be a link between the Registered Provider's conversions and the raising of rents to fund new development in the borough.

Whilst new lets and conversions to the affordable rent model provide the opportunity to offer a flexible/fixed term tenancy should this be a requirement of the provider it is expected that this would be in discussion with the Council.

Justification

Properties with section 106 agreements remain protected by legal planning obligations and are required in perpetuity

Where properties are converted these should avoid being in areas where market rents would be significantly higher than the average for the housing market area, in larger homes and where re lets at an affordable rent would be in excess of the Local Housing Allowance rates, as it would be likely to be a barrier for lower income and newly forming households.

Use of Affordable rent tenancies

Policies on affordable rents should ensure that rent levels do not exceed the Local housing allowance rate for South Ribble Borough Council,

Justification

This should help to ensure that Registered Providers do not focus on using the affordable rent model in very expensive localities where 80% of the local market rent could be too expensive for those on a modest income.

Each Registered Provider's approach to charging affordable rents should be clear, made available to the public and clearly identified when property is being advertised so that customers can make informed choices.

B) The circumstances for granting a tenancy of a certain kind

Policy considerations

When developing tenancy policies Registered Providers will need to set out how they will deal with groups of people in need of settled or stable accommodation and those whose circumstances are unlikely to change, particularly those vulnerable households by reason of age, disability/illness or households with children.

It is important that Registered Providers will provide lifetime tenancies for those with a disability, illness and welfare needs and so ensure tenancies granted provide stability.

When framing policies providers should at the minimum have regard to vulnerable groups which could include :

- Households with someone over 60
- People with long- term medical or welfare need

Consideration should also be given to other vulnerable households who receive housing related support via the Supporting People programme who are not covered in the above groups. It is anticipated that policies will have regard to vulnerable households in need of support. It is important that client groups such as people with learning disabilities, physical disabilities and mental health problems have a high level of security of tenure due to the nature of their support needs, and the presumption should be for a secure/assured tenancy.

When framing policies providers will set out when granting a tenancy that consideration has been given to the impact on those who may be affected by the welfare reform, ensuring advice and assistance and a financial assessment to ensure that rent is affordable to the household when the tenancy is one at an affordable rent level.

Justification

It is important that Registered Providers offer lifetime tenancies for those with a disability, illness and welfare needs and so ensure tenancies granted provide stability as those who receive support and are more vulnerable are likely to require a more stable environment.

C) Fixed term tenancies

Policy Considerations

In certain circumstances it may be that fixed term tenancies are offered. Where this is the case the council would want these to last for a minimum of five years and that the circumstances and criteria used where fixed term tenancies are offered is clearly set out in housing providers tenancy policies.

In exceptional circumstances where tenancies are offered for a shorter period of time this would be no less than the statutory two years minimum.

Where consideration is given to offering fixed term tenancy's this will be in consultation with the council and would remain compatible with the purpose of social housing. If after consultation with the council it is considered appropriate to introduce fixed term tenancies then they should be granted for a minimum of 5 years in length and potentially longer.

It is important for the council that any fixed term tenancy policy will offer a presumption in favour of renewal at the end of a fixed term.

However in cases where a tenancy is not renewed, it is important to the council that Registered Providers' policies indicate that they will seek to find the household an alternative

tenancy particularly if they are under occupying or not using disabled adaptations. If this is not possible or appropriate, then advice and assistance must be given at the earliest stage.

We would expect advice to provide sufficient information to find alternative accommodation and that providers ensure they work with the council to prevent households who are coming to the end of flexible tenancies being threatened with homelessness.

Where a tenancy is not renewed then providers must show through policies that they have had due regard to equalities and human rights legislation, and that ending a tenancy is a proportionate means of achieving a legitimate aim and that they have provided six months' notice of the decision not to grant a further tenancy.

Policies should show a good reason for not renewing a tenancy and that when not renewing that this can be justified in accordance with its own policies.

Justification

The council expects that for the majority of properties, that some type of 'lifetime' tenancy will be used in the interest of building sustainable communities, but the council understands that certain housing stock of a particular type may present a strategic case for time limited flexible/fixed term tenancies.

However the council does not want to see an increase in the levels of turnover created by a disproportionate amount of fixed term tenancies or an increase in homelessness.

Any increase in use of fixed term tenancies may be a risk to the council in terms of increased demand for housing options services, and this will need to be balanced against the benefits of such flexibility.

D) The circumstances on the ending of an existing tenancy.

Policy Consideration

General policy

Tenancy policies will need to outline specific circumstances which determine whether or not a Registered Provider would grant another tenancy at the end of a fixed term.

Where a fixed term tenancy is used then the council expects the Registered Provider to follow their own policy and procedure to determine if the tenancy is to be renewed but there is an assumption by the council that policies will presume a renewal of the tenancy for at least the equivalent to the current or previous fixed term, particularly where the following arises:

- Household includes a child under 18
- The household includes a disabled person who is making use of the adaptations where there are major adaptations
- The occupant is receiving housing support or is recognised as being vulnerable

It is important to the council that policy considerations facilitate the granting of a further fixed term tenancy unless there has been a significant material change which affects housing requirements. This may include:

- The household has become smaller and there is under-occupation;
- There has been a significant relative increase in income which negates any need for social housing;
- The property has become unsuitable for the household's need due to major adaptations or accessibility features that are no longer needed.

Where there are tenancy breaches such as anti-social behaviour, tenant damage, or rent arrears these should be dealt with under normal possession grounds.

Cases of over or under occupation should also be dealt with using existing mechanisms, including offers of suitable alternative property if there is still a need for social housing.

Further tenancy policy considerations

As part of a tenancy policy the rights of existing tenants should be clear and it is important that policies describe how providers will deal with:

Succession of Tenancy

Registered Providers policy regarding the granting of discretionary succession rights needs to be transparent, make the best use of resources but take into account the needs of vulnerable household members.

Policies will need to comply with the statutory succession rights prescribed in the Localism Act 2011 and any other relevant statutory provisions

Mutual Exchanges

Security of tenure will be preserved in mutual exchanges however there is a risk of loss of security when someone chooses to exchange with a tenant with a flexible/fixed term tenancy. In South Ribble, it is important that security of tenure should be preserved wherever possible in these instances. However should any tenant be at risk of losing security as a consequence of a mutual exchange they should be fully advised of this.

Under Occupation/ Overcrowding

Registered Providers need to structure policies to ensure that they manage and make best use of stock and assist with seeking to move those who are under occupying or overcrowding into more appropriate accommodation.

Transferring Social Housing tenants

Where existing social housing tenants choose to move to homes let at an affordable rent that existing tenants continue to be offered equivalent security of tenure, although they would be required to pay the affordable rent.

When formulating policies it is important that any respective tenancy policy should outline that those tenants who currently have a tenancy will remain secure.

Justification

Where a tenancy is fixed term it is important that there is clear guidance on when and how this will be ended and that the ending of a tenancy is not used in default instead of the necessary routes when tenancies are breached.

Reviews

Registered Providers should aim to include the statutory provision on review in their policies when setting out the way in which a tenant or prospective tenant may appeal or complain against the type of tenancy offered or the length of the fixed term and against a decision not to grant another tenancy on the expiry of the fixed term.

The council would anticipate that tenancy policies will also include:

- The right for the tenant to appeal the decision to end a fixed term Affordable Rent tenancy in writing within 21 days of the first notice;
- *The right of the tenant to request an oral hearing;*
- Someone senior to the original decision maker dealing with the appeal;
- The appeal process to be completed before the tenancy is due to expire and the decision notified;
- A full explanation of the outcome of the appeal in writing.

It is expected that Registered Providers would allow appeals if the length of a fixed term Affordable Rent tenancy offered is less than stated in the Registered Provider's policy.

Monitoring

Registered Providers will be expected to review and update their policies on an annual basis

This strategy will be reviewed and updated on an annual basis, however any significant revisions to this document are likely to be the result of national legislation or housing strategy and will be subject to consultation.

This strategy has been subject to an equalities impact assessment