



Tenancy Strategy 2013 - 2018

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Introduction

The Localism Act 2011 requires local authorities to develop a Tenancy Strategy for their area by January 2013. This document outlines Reading Borough Council's expectations of Registered Providers (Housing Associations), and provides guidance on the use of Fixed Term Tenancies. In parallel to the introduction of the Localism Act, the Affordable Homes Programme was introduced in 2011 which changed the funding arrangement for new developments of Affordable Housing. It also introduced the new Affordable Rent product. This Tenancy Strategy outlines Reading Borough Council's (the Council's) expectations of Registered Providers in terms of both tenancy type and the use of Affordable Rent within the Borough boundaries.

This Strategy has been developed in full consultation with key stakeholders in Reading and will be reviewed every 5 years, or earlier if required.

Strategic Context

The Tenancy Strategy has been developed in line with both the Council's Housing Strategy 2009-14, 'Firm Foundations'¹, and its Homelessness Strategy 2008-13². These in turn develop the strategic objectives set out in the Council's Sustainable Communities Strategy³. It should also be read in conjunction with the current Affordable Housing Supplementary Planning Document⁴. Any update of these documents may lead to a review of the existing Tenancy Strategy.

Housing Need

'Firm Foundations' sets out the identified housing need and priorities for Reading. In addition an updated 'Housing Need Assessment and Affordable Rent Review'⁵ was completed in February 2012. This identified that there is a need for an additional 932 affordable homes each year to address current and newly arising housing need in the borough. The Council's Housing Strategy 'Firm Foundations' evidenced that although there is a need for all sized accommodation, the highest pressure is on large family sized properties.

Overview

Fixed Term (Flexible) Tenancies

The Government has introduced changes which mean it is possible for councils and other providers of social housing to grant a fixed term tenancy. A fixed term tenancy, also known as a Flexible Tenancy, is where a property is let for a fixed number of years. At the end of the fixed term, the tenancy is then reviewed and is either renewed or the tenant is asked to move to alternative accommodation. This is a change from the current situation whereby most affordable homes are let on a secure or assured tenancy, which is effectively for life as long as the rent is paid and other tenancy conditions complied with.

Existing council and housing association tenants will not be affected by these changes. They will retain their existing security of tenure and other terms and conditions, including the

¹ RBC (2009) - *Reading Borough Council Housing Strategy, Firm Foundations*

² RBC (2008) - *Reading Borough Council Homelessness Strategy*

³ RBC (2011) - *A sustainable Communities Strategy for Reading*

⁴ RBC(2004) - *Planning Obligations under Section 106 of the Town and Country Planning Act 1990, (as amended September 2004)*

⁵ DTZ (2012) - *Housing Needs Assessment and Affordable Rent Review*

right to buy, succession rights and the right to exchange their tenancy with another secure tenant. However existing secure tenants may be required to take on a fixed term tenancy should they choose to move to an alternative property.

The new arrangements mean that since April 2012 social landlords, including local authority landlords, have the option of granting fixed term tenancies to all new tenants. Tenants granted a fixed term tenancy will have many of the same rights as secure tenants, including the right to buy.

Affordable Rent

Registered Providers of social housing regularly enter into agreements with the Homes and Communities Agency (HCA) regarding funding to deliver new affordable homes. The most recent agreement was entered into by providers in 2011 and outlined their delivery programme for the next 5 years. As part of that framework, the new Affordable Rent product was introduced and is now the main delivery mechanism for the provision of new build affordable housing in the country. This product allows Registered Providers to set their rent levels for new homes at up to 80% of the current market rent for the area, which is significantly higher than the rent levels that have previously been set for social rents (typically 55-60% of market rents).

Registered Providers (not local authority landlords) are also able to convert a property let at a traditional target/social rent to an 'Affordable Rent' property, increasing the rent level at the point the property becomes empty and is allocated to a new tenant.

The Government expects Registered Providers to use this increase in rent to invest in new housing and offset the reduction in grant funding provided for new developments of Affordable Housing. However although the new Affordable Rent Framework allows for an increase in rent levels, it is not mandatory that Registered Providers should do this. Registered Providers decide as to the rent levels charged (up to 80% of market rent) for different sized properties, and how many properties they convert to affordable rent at re-let.

Objectives of the Tenancy Strategy

The Reading Borough Council Tenancy Strategy aims to ensure that social housing in Reading continues to be developed in a way that most meets local need. The Council has set objectives to meet this overall aim, in particular:

- To ensure that if a Register Provider chooses to use fixed term tenancies, the approach in Reading is consistent and enables the best use of housing stock to meet housing need;
- To ensure that any use of flexible tenures does not have a negative impact in terms of homelessness;
- To acknowledge that some neighbourhoods have specific issues/needs and will require tailored solutions;
- To ensure that Affordable Rent levels are set in a way that enables a deliverable supply of properties which remains affordable for both low income working households and households that are dependent on welfare benefits; and
- To ensure that Registered Providers' tenancy policies and use of Affordable Rent supports stable communities and promotes stability for vulnerable households and families.

Fixed Term Tenancies

Context

It is central Government's intention that the introduction of fixed term tenancies will result in new tenants to social housing only be granted a tenancy for as long as they are assessed as needing it, rather than being offered a home for life. They argue that this will ensure that more social homes are available to people who need them.

In addition the introduction of fixed term tenancies is intended to enable social landlords, at the point a tenancy is reviewed, to ask people to downsize to smaller accommodation or move out of adapted accommodation, if their household is assessed as no longer requiring the property where they are currently a tenant. It is the Government's suggestion that this will help tackle the issue of under-occupation in social housing.

However in their response to the Tenant Services Authority consultation in 2012⁶, Shelter suggests that this removal of security of tenure fundamentally changes the purpose of social rented housing. Shelter argues that the changes represent a move away from a tenure that provides permanent, affordable and decent homes to a potentially more temporary and short-term arrangement. Shelter contend that there is a concern that the introduction of fixed term tenancies could result in excluding households who cannot afford owner-occupation from the opportunity of a permanent, settled home⁷. Fixed Term Tenancies mean that social landlords have the decision as to whether tenants can remain in their home, which reduces the choice and control people have in their lives.

Research shows that, "high levels of mobility in deprived areas can be problematic, being often associated with decreasing social capital, increasing problems around social cohesion and increasing demands on local services."⁸. The same research illustrates that those residents who stay in areas with low levels of resident change report high levels of improvement with place-based outcomes, whereas areas with high levels of mobility had significantly less positive outcomes, specifically in terms of housing. Similarly negative outcomes in terms of education were also highlighted. Tenants renting their homes on a temporary, fixed-term basis find it much more difficult to plan for the future and feel settled in their homes and neighbourhoods. If asked to leave their current accommodation, it could be difficult for tenants to secure alternative housing within the same locality, so children may be required to change schools and families may find their existing support networks removed. Therefore the introduction of fixed term tenancies may create a more transient population; may reduce an individual's social connections and undermine the sustainability of communities.

The potential reduction in social connections and community interaction resulting from the use of fixed term tenancies could lead to an increased need for local authority social care intervention and support. Further the fear of having to move may act as a disincentive to a tenant to invest in, maintain and improve their own home, leading to physical decline and/or increased maintenance budgets for the landlord. Further stock condition problems

⁶ Shelter (2012)-Shelter response to Tenant Services Authority consultation on a revised regulatory framework for social housing in England from April 2012

⁷ *ibid*

⁸ DCLG (2009) *Resident mobility and outcome change in deprived areas*

may arise if tenants are reluctant to request repairs or improved services because of a (real or perceived) risk of this being a factor in a review of their tenancy.

Finally, there is a concern that, over time, it may become increasingly difficult for landlords to engage meaningfully with their tenants where the landlord has chosen to let on fixed term tenancies. This in turn has a direct implication for the recently published Regulatory Framework for Social Housing⁹ and its emphasis on tenant involvement.

Reading's Borough Council's position

The Localism Act enables Registered Providers and the Council to have the flexibility to determine the length of tenancy that they offer to new tenants (both social and affordable rent) as opposed to the existing assured or secure lifetime tenancies¹⁰. The new fixed term tenancies should be set at a minimum of five years but the Localism Act does allow for two year tenancies in exceptional circumstances¹¹.

Whilst it is acknowledged that these flexibilities may provide an opportunity to address issues such as under-occupation, and encourage the best use of Reading's affordable housing stock, the Council in general does not support the use of fixed term tenancies. The Council believes that the use of fixed term tenancies will have a detrimental effect on communities and limit community cohesion and sustainability. It is unlikely that a person will be able to remain in their existing neighbourhood should a fixed term tenancy not be renewed, and the individual could therefore have to move away from existing services and schools. It is Reading Borough Council's view that if people are granted a tenancy for life, this provides security and may increase their feeling of belonging to their neighbourhood. This in turn may make it easier for people to connect with support networks and increase their willingness to look after their home or engage with the community around them.

Registered Providers' Tenancy Policies

Notwithstanding the Council's preferred position, the Council recognises that Registered Providers may still choose to introduce fixed term tenancies. Government reforms require affordable housing providers to formulate policies regarding the use of fixed term tenancies, including:

- whether fixed term tenancies should be introduced;
- the length of tenancy; and
- the process under which tenancies will either be renewed or terminated at the end of a fixed term.

The Council is keen to ensure that these policies are developed and applied in a manner that does not undermine social investment into communities, and ensures that the most vulnerable tenants are provided with the level of stability they require.

As a result, where fixed term tenancies are introduced, the Council's preferred tenancy terms are:

- that the recommended five year fixed term tenancy should be considered the minimum; and

⁹ HCA (2012) - *THE REGULATORY FRAMEWORK FOR SOCIAL HOUSING IN ENGLAND FROM APRIL 2012*

¹⁰ Registered Providers will call these 'fixed term' tenancies, the council will call them 'flexible' tenancies- Localism Act 2011

¹¹ Exceptional is defined as not typical or usual

- that if Registered Providers seek to reduce this term below five years then the Council will expect that clear criteria are agreed as to what would be considered an 'exceptional circumstance' so as to justify use of the shorter term, and the Council would need to ensure that these criteria support the objectives of the Council's Sustainable Communities Strategy and Housing Strategy.

The Council would still expect the following households to continue to be offered lifetime tenancies.

- Disabled tenants¹²
- People living in either sheltered or other supported permanent accommodation (for example Extra Care Housing¹³)

Tenancy renewal

The Council is of the view that, in the majority of circumstances, housing providers should seek to *renew* a tenancy at the end of a fixed-term.

The Council expects Registered Providers to set out clearly within their Tenancy Policy how frequently a fixed term tenancy will be reviewed and the nature of the review including what factors will be considered.

The Council expects a fixed term tenancy always to be renewed where:

- A household member still requires a significant adaptation in place at the property
- The household receives some form of support to maintain their tenancy
- The household still requires the size of property, unless there is an adaptation at the property that is no longer required
- The applicant or another household member is terminally ill
- The household includes children of school age

The Council is keen to ensure that any assessment of financial capacity is managed in a manner that does not act as a disincentive to work and is not founded on an expectation that tenants will be required to move - if they would prefer not to - purely as a result of an increased income. It is acknowledged that the point of tenancy renewal is an opportunity to discuss alternative accommodation options for tenants that have experienced a change in financial circumstance.

In terms of tenancy conduct, it is important that the review of the fixed term tenancy is not used as an alternative to the usual remedies available to address breaches of tenancy. On that basis the Council would not expect a landlord to decide not to renew a fixed term tenancy because of the way the tenant has conducted the tenancy. However, a non renewal may be appropriate if possession proceedings are already in progress, if agreement is obtained from the local authority.

Support and advice if a tenancy is not renewed

The Council is committed to ensuring that the decision to terminate a fixed-term tenancy does not lead to an increase in homelessness in Reading. It is expected that Registered Providers supply tenants with appropriate advice and assistance about their housing options

¹² Tenants meeting the definition of 'disabled' as set out in the Equality Act 2010

¹³ Extra Care Housing is designed with the needs of frailer older people in mind with varying levels of care and support available on site. People who live in Extra Care Housing have their own self contained homes, their own front door and a legal right to occupy the property.

at the time they conduct a Fixed Term Tenancy review, and at the point a decision is made that a tenancy will not be renewed. The Council would expect the existing tenancy to be renewed if no alternative accommodation can be secured, no household should be made homeless due the non-renewal of a Fixed Term Tenancy.

In situations where a decision has been taken by a housing provider not to renew a tenancy at the end of a fixed-term, the provider should seek to engage with the tenant at the earliest possible opportunity to make them aware of the provider's intentions.

Registered Providers should make available to households affected by the termination of a tenancy any relevant advice and assistance that will support them in successfully relocating to alternative accommodation. This advice and assistance could include:

- Offers of alternative accommodation that meets their newly assessed need within the Landlord's own stock;
- 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; and
- 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).

It is expected that Registered Providers allow a tenant to remain in their property at the end of the tenancy until a suitable alternative has been found.

Operational requirements

The Council requires Registered Providers to produce and publish a Tenancy Policy in Plain English which will explain:

- The kind of tenancies they will grant
- The circumstances in which they will issue fixed term tenancies
- The length of tenancy terms
- The circumstances in which the tenancy will not be renewed
- The procedure for taking possession proceedings
- The procedure for requesting a review of the decision not to renew a tenancy

The Council expects that tenants who have had a review of their tenancy will be given at least 6 months notice if the provider is minded to end the tenancy, and that adequate reasons for the decision to end the tenancy are given with information on the right to appeal the decision. The Council would also expect providers to notify the Housing Advice Team at the Council at the earliest possible opportunity or upon serving the notice.

If a property is to be let on a fixed term tenancy, this needs to be clearly highlighted on the advert used as part of the Council's choice based lettings system.

Rent Setting - Ensuring Affordability

Affordability

Reading has a twice the national average of properties that are privately rented¹⁴. This is due to the high level of demand in the area created by the enduring economy attracting young professionals to the town. Therefore, although cheaper properties can be found, the average rent for a private rented property is high. In February 2012, the average rent levels per calendar month were as follows (table includes the equivalent 80% rent figure):

Table 1

Bed Size	Average Monthly Rent	80% of Rent
One Bed (including Studios)	£700	£560
Two Bed	£960	£770
Three Bed	£1,000	£800
Four bed	£1,060	£850
Five Bed Plus	£1,230	£980

Source:DTZ¹⁵

Nationally, accommodation is classed as affordable when a household spends 33% or less of its income paying for it, although it is acknowledged that many households are forced to pay more than this. Therefore, in order to be able to afford to rent at full or at 80% of market rent in Reading, a household's income needs to be as follows (please note that this is gross income):

Table 2

Bed Size	Gross income needed for Average Market Rent to be affordable	Gross income needed for 80% of Market Rent to be affordable
One Bed (including Studios)	£25,300	£20,200
Two Bed	£34,600	£27,700
Three Bed	£35,900	£28,800
Four bed	£38,200	£30,600
Five Bed Plus	£44,200	£35,400

Source DTZ

Data from the 2010 Housing Needs Assessment¹⁶ indicates that 26% of Reading households have an income of less than £20,000. This means that those households are unable to afford an average priced 1 bed property even if let at 80% of the market rent. A further 21% have incomes of less than £30,000 excluding these households from renting anything larger than a 1 bed property at market rents and excluding them from large family sized units even if let

¹⁴ RBC (2009) - *Reading Borough Council Housing Strategy, Firm Foundations*

¹⁵ DTZ (2012) - *Housing Needs Assessment and Affordable Rent Review*

¹⁶ Ibid

at 80% market rents. This issue is further exacerbated in the case of tenants in social housing where it is estimated that nationally 77% of households have an income of below £20,000 and only 9% receive an income of above £30,000.

It is acknowledged that a proportion of tenants will be claiming Housing Benefit, or in the future have a housing component to their Universal Credit payment. However, many private sector properties remain out of reach for low income families. This is due to the Local Housing Allowance now being based on the 30th percentile of market rents (until April 2012 it was the 50th percentile), and therefore Housing Benefit will only cover the rent of the bottom 30% of private rented sector properties. This can in turn increase the need for affordable housing.

For those households that are in receipt of out of work benefits additional pressure on a person or family's ability to secure appropriate accommodation is the introduction of the benefit cap and restraints on the amount welfare benefits can increase (capped at 1%) in comparison to inflation. The benefit cap is set at £350 per week for single adult households without children and £500 per week for couples (with or without children) and single parent households. This equates to a net income of £18,200 a year and £26,000 a year respectively. The benefit cap remains static for all households regardless of location or number of children.

However the benefit cap will be the top end of the scale in terms of benefits received by out of work families, expected to affect only 1% of the current working age out of work benefit caseload¹⁷, with many households receiving a lower amount based on their assessed need. Therefore many households will have less than the £800 a month available to spend on the rent required to access 3 bed properties or larger when let as 'Affordable Rent' (when rent is set at 80% of the average market rent). As highlighted above this is also the case for 47% working households in Reading which are on an income of below £30,000 a year, who are the households most likely to apply for social housing.

Reading Borough Council's Position

Reading Borough Council recognises the pressure on Registered Providers due to the Government's drive to introduce the Affordable Rent model, and the shift in the new build housing development model which increases a Registered Provider's reliance on the rental income stream. Negotiations with Registered Providers to enable housing delivery will continue. However, the Council is committed to ensuring that affordable housing remains affordable to those on the lowest incomes, and recognises the challenge for households that need large family sized accommodation¹⁸. The principles set out below are intended to provide clear direction as to the Council's expectations of Registered Providers when setting rent levels.

The Council requires affordable housing providers to develop **1 and 2 bed properties only** at 'Affordable Rent' levels, and to ensure that rents charged do not exceed the lower of the following two criteria:

- the relevant Local Housing Allowance (LHA) rate that is applicable for that property size, at the time of rent setting; or

¹⁷ DWP (2012) - **Benefit Cap** (Housing Benefit) Regulations 2012: **Impact assessment** for the **benefit cap**.

¹⁸ National Housing Federation et al (2011) - *A Joint Briefing Welfare Reform Bill - Clause 93*

- the amount assessed by the Registered Provider as affordable in the local area at the time of setting the rent, and agreed with the Council.

On a new development, the percentage of the affordable housing contribution that can be Affordable Rent, rather than Target (Social) Rent, will need to be negotiated with the Council on a case by case basis.

Conversions

The Council requires Registered Providers to have regard to the overall mix of properties in a particular locality when considering converting a property from Target Rent to Affordable Rent. No area of the town should experience a disproportionately high level of conversions, to ensure that there continues to be the opportunity for existing social rented tenants to transfer to areas of their choice whilst retaining a Target Rent level. Registered Providers should therefore be mindful of the impact of conversions upon the tenure profile and overall sustainability of the communities within which they operate.

The Council expects Registered Providers to work to the following guidelines when converting existing properties from Target to Affordable Rent:

- Registered Providers should not convert properties with three bedrooms or more to Affordable Rent.
- Rent setting for any one or two bed properties converted to an Affordable Rent property should be in line with the guidance set out above.
- Registered Providers must not convert properties that provide supported accommodation for older people such as sheltered accommodation or properties that have been adapted to Affordable Rent.
- Registered Providers must not convert more than 50% of their existing stock within Reading to Affordable Rent, as measured from the 2011 baseline position.
- Registered Providers must not convert to Affordable Rent more than 50% of the properties available for re-let in a 12 month period.
- The Council expects conversions from social rented properties to Affordable Rent properties at the point of re-let to be based on the agreed contract with the HCA, and that those agreed numbers be shared with the Council in order for effective monitoring of housing supply to take place.

Operational requirements

The rent level for any property needs to be clearly stated in the advertisement used as part of the Council's choice based lettings scheme.

The council expects Registered Providers to discuss affordability of the rent with new tenants at the point of sign up.

Review of this Strategy

This strategy will be reviewed every 5 years, or earlier if required. The Council may chose to review before the expiry of 5 years if it feels this is necessary due to national or local changes to policy or circumstances.

The Council welcomes comments and suggested improvements that can be made to this Strategy and will take account of these when updating it.

If you wish to discuss this Strategy and/or the Council's approach please contact Sarah Tapliss, Service Development and Partnerships Officer.