



*Basingstoke
and Deane*

Tenancy Strategy

Basingstoke and Deane
January 2013



Introduction

The Localism Act 2011 introduced the concept of “flexible tenancies” into the social housing sector. The Act gives providers of social housing the option to offer flexible tenancies to new social tenants. A flexible tenancy is a secure tenancy of a fixed term (not less than two years), rather than a “lifetime” tenancy, where the tenant may remain in the property for life, even if their circumstances change and they no longer need it.

Basingstoke and Deane Borough Council recognises that flexible tenancies can make a contribution to meeting housing need. Social housing is a scarce resource and flexible tenancies could be one way of ensuring that it is available to those households with the greatest level of housing need in the borough. This is because a flexible tenancy will have a fixed end date at which point the tenants circumstances can be reviewed to ensure they are still eligible for social housing. Fixed term tenancies and the review process forms part of an overall package of options that local authorities and housing providers have available to them to meet housing need and minimise and prevent homelessness, so contributing to the council’s overall strategic approach to housing and its statutory duties.

Section 150 (1) of the Act places a new duty on every local housing authority to publish a Tenancy Strategy. The Strategy must set out, in high level terms, the matters to which all registered providers of social housing for its district should have regard in formulating their own tenancy 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.

This Basingstoke and Deane Tenancy Strategy is produced in response to this direct statutory requirement. The Strategy provides direction and guidance to Registered Providers who own and manage stock in the borough – stock which **excludes** all accommodation based supported housing, but **includes** sheltered housing. It sets out the council’s expectations with regard to life time and fixed term tenancies. It informs borough residents what they might expect when they move into or between social housing properties in relation to their period of tenure. It sets out the criteria to which RPs must have particular regard in relation life time tenancies, fixed term tenancies and individual tenant reviews.

The council recognises that it has no regulatory powers to direct Registered Providers in their decisions about the tenancy terms (lengths) they may offer. However, the council expects that Registered Providers in the borough will have regard to this Tenancy Strategy in their decision making process, both at the point a property is let and when the tenancy is reviewed.

Context

This Strategy sits alongside, and is consistent with, the objectives of the Housing and Homelessness Strategy 2013 – 2018, those priorities in the previous Housing, Homelessness and Benefits Strategy 2008 – 2011, and the evidence base to support it. It fully supports the principles in the Council Plan 2012 – 2015¹ in relation to strong communities, high quality of life and access to affordable homes, and specifically *“to ensure that new affordable housing reflects the needs of all sections of the community, by provision of a range of housing types and tenures, of the right number in the right place built to high design standards in sustainable communities”*.

The scope of the Strategy is borough-wide and extends to all areas of Basingstoke and Deane. This helps ensure consistency for all the borough’s residents and communities. It applies to all new tenants in social housing in the borough from April 2012, whether their rent is at social rent levels or affordable rent. The Localism Act provisions in relation to flexible tenancies do not cover shared ownership properties; nor do they cover intermediate rented properties advertised through Homes In Hants², nor do they affect existing tenants who remain in their current property.

Objectives and key policy areas

There is a balance to be struck in providing tenancy terms of sufficient length that households may enjoy some stability and quality of life, but also that periodic reviews may re-assesses and re-confirm their eligibility to scarce social housing.

The objectives of the Basingstoke and Deane Tenancy Strategy are set out below in order to provide an approach to lifetime and fixed term tenancies in this borough that support this balance and will:

- **Make best use of social housing stock;**
- **Address housing need;**
- **Minimise and prevent homelessness;**
- **Provide support for vulnerable groups;**
- **Ensure that each case be treated on its merits;**
- **Be fair and consistent across the borough.**

It is recognised that Registered Providers will apply their own policies to the issue of fixed term tenancies, tenancy reviews and operational matters. This Strategy sets out the principles to which Registered Providers should have regard when developing and applying their tenancy policies in our area. In its strategic approach to meeting housing need and tackling homelessness the council also sets out nine key policy areas to which RPs should give additional weight.

¹ Reference to the Council Plan 2012 – 2015 will be updated at the time the Council Plan 2013 – 2016 is adopted.

² Homes in Hants is the agent to whom all applicants need to apply for shared ownership, intermediate rent and affordable home ownership in Hampshire.

1) Homelessness prevention

Registered Providers should consider, when each tenancy comes up for review, the implications and consequences of their decision with regard to potential homelessness that may result. On review, before making a final decision, RPs should explore with the tenant possible housing alternatives so that homelessness is avoided. This may include:

- Transferring to alternative more suitable accommodation, for example, downsizing;
- Varying the rent level where the tenant's income has increased (but their income is still not high enough to secure market housing).

2) Vulnerable groups

In some circumstances, fixed term tenancies are not appropriate and a lifetime tenancy should be awarded. Basingstoke and Deane Borough Council expects that certain vulnerable groups should be protected, and for these groups, it is right and proper that lifetime tenancies should still be part of the social housing offer in the borough. Where accommodation specifically suited to meet the needs of these groups has been provided, fixed term tenancies should not be awarded to:

- tenants with significant³ learning disabilities; or
- tenants with significant mental health issues; or
- tenants with other significant medical, health or behavioural conditions which are unlikely to improve and where moving home would adversely impact on that condition; or
- tenants living in sheltered or extra care schemes.

3) Disabled adaptations

Where a DFG has funded a significant adaptation to a property (for example a through floor lift, level access shower, extension or stair lift) to meet the needs of one or both tenants, or a dependent / non-dependent child within the household, it is expected that the household may continue to live in that property for as long as there is a disabled household member who requires that adaptation still residing in the property. This ensures stability for that household, recognises the continued need and use of the adaptation for that household and ensures the long term benefits / value of the DFG to that household.

4) Transfers and mutual exchanges

Where an existing tenant holds a lifetime tenancy and they transfer from one property in the borough to another also in the borough it is expected that their lifetime tenancy will transfer with them. This applies for tenants transferring from one RP to another and transferring with the same RP. This is to maintain turnover of stock in the borough and to ensure that housing in the social sector remains dynamic and fluid. This will also complement incentives for downsizing so that under-occupied tenants can move to smaller properties without compromising their security of tenure.

³ Should be determined by reference to GP / medical or qualified health professional assessment. See also Glossary.

A tenant already covered by a lifetime tenancy who has to decant due to a regeneration scheme would be expected to retain their lifetime tenancy throughout the life of the regeneration programme.

5) Rural housing

Rural exception scheme properties may require “local connection” eligibility to be demonstrated. This will carry significant weight and the council should be consulted in each individual case with reference to the existing tenant’s ability to find suitable accommodation elsewhere and the nominations that may be considered for that property if the existing tenants move out.

Consideration should also be given to the scarcity of housing in some rural areas. Any decision to renew, or not to renew, a tenancy will require a balance between the housing needs of those on the Housing Register and the likelihood of the existing tenant to secure other accommodation that meets their needs.

6) Council funding

Basingstoke and Deane Borough Council may use its own resources (land or investment funding) to support a development. The council may, in these circumstances determine the mix and distribution of flexible and lifetime tenancies and how they should be applied as part of the lettings approach on that site. This is to ensure that council resources are used to best and sustainable effect in the delivery of affordable housing and support of households in housing need.

7) Tenancy terms

While the Localism Act 2011 allows fixed term tenancies to be offered for a two year term, the council would expect that fixed term tenancies should be a minimum of five years to give some stability to households in need and for the communities in which they live. This does not include time for probationary or starter tenancies, the terms for which would be in addition to the five years minimum term. A term of five years allows a balance to be struck between providing security and stability for tenants.

8) Under occupation

Where a household under occupies by 2 bedrooms or more then this would be a material factor in considering not to renew a fixed term tenancy as the household would be deemed to be in a property too large for their needs. This would free up property for families in housing need in overcrowded or unsuitable conditions who require a larger property. This also helps to improve the supply of family homes for which turnover and re-let rates are traditionally low. This approach is also consistent with the council’s Allocations Policy.

9) Sustainable communities

Registered Providers should have regard for the principle of sustainable communities, that is, the importance of encouraging stable and settled neighbourhoods. This is particularly important with hard to let areas and parts of the borough where there may be a high level of household/population turnover or unemployment.

This principle also requires Registered Providers to consider whether there is sufficient housing need in that area for a particular size and type of property: such that if a tenancy was not renewed, resulting in a property being vacated, there would be households with sufficient housing need to take up that property.

Tenancy reviews

Review principles

The default position for renewal of tenancy at the end of the fixed term should solely be based on the housing need of the current tenants and an affordability assessment taking account of the financial circumstances of the household whether they are able to afford rent or owner-occupation on the open market.

The review assessment should determine whether the household still requires a property of the same type and size, in the same location, at a lower than market cost, and that the current property remains suitable given these factors. An assessment of affordability should also take into account how much the rent may increase for that particular property over the next five year term of the tenancy and whether likely increases in the rent may render it unaffordable. Where there is evidence to support a continuing need or an affordability issue, the council expects that the tenancy will be renewed.

Therefore, a tenancy should be renewed unless the housing need has been alleviated and there is evidence that:

1. the housing need - based on the council's allocations policy and reasonable preference categories and the household requirement for a property of that size, type and location - no longer exists;

or

2. that on affordability grounds, the household no longer requires an social housing property at that rent level;

and

3. where either points 1 or 2 apply, taking account of the local housing market, there is available and suitable and affordable property in the locality for the household to move to, and the tenant has sufficient "local connection" to be eligible to secure that property.

Registered providers should:

In relation to timescales:

- Ensure that tenancy reviews are started no less than 9 months before the end of the fixed term – ideally beginning 12 months before the end of the fixed term;
- Work proactively with the local authority and advice agencies and partners to explore all housing options, contacting all such agencies no later than 9 months before the end of the fixed term;
- Ensure that the timetable for review and appeal is such that, following any appeal that results in the tenancy ending, the tenant has 6 clear months from receiving the appeal decision before the tenancy ends.

In relation to other key considerations:

- Set out and publish their policy and rationale for applying fixed term tenancies, under what circumstances and for how long they would be granted, any exceptions to this policy, where tenancies would be granted as lifetime;
- Set out the criteria that will be used at review to assess whether a tenant can remain in the property at the end of the fixed term, whether the tenancy will be renewed, or whether a tenancy will come to an end;
- Set out the review process, timescales, what advice the tenant might expect to receive, how the tenant is able to obtain advocacy, the agencies and partners that can provide additional advice and how the tenant may contact them, and how to appeal a decision;
- Exploring other housing options with the tenant, which must be reasonable, sustainable and settled housing solutions - there must be evidence that the tenant must be able to maintain these in the medium to long term;
- Not conduct the review as a desk-top exercise but must include at least one visit to the household and the collection of documentary evidence to verify the tenants circumstances: the decision should include a face to face interview with each of the adult members of the household (over the age of 16);
- The written decision should include how the decision has been made, and how the tenant`s individual circumstances relate to the RP`s policy;
- The written decision should include reference to the agencies contacted by the RP in reaching their decision;
- The written decision should, as standard, include an assessment of each of the following issues. The assessment will consider the implications of the RP`s decision on each of these issues, and include details of the mitigation they have considered in relation to:
 - The health, disability and general welfare / well-being of any member of the household;
 - Their employment or income and any expected future changes in their earnings or income;

- The transience, stability and security of any employment, including a consideration of the need to support tenants who have recently started work;
- Necessary household expenditure
- The education and training of members of the household, including their ability to access or continue education and training opportunities;
- Their established community and family connections;
- The housing need of the household and how this may change in the future;
- Their ability to afford their current rent;

- Where it is considered that the tenancy should not be renewed, the availability of suitable and affordable property in the locality for the household to move to;
- Varying the terms of the tenancy;
- Prevention of homelessness;
- Any other circumstances that may be relevant to that household, including extenuating circumstances where moving home may impact adversely on welfare or wellbeing of the household;
- Any circumstances relevant to the particular locality (for example, rural housing location [see section 5] and sustainable communities [see section 9])

- Not apply blanket policies or exclusions but treat each case on its individual merits;
- Have general regard to the principle of sustainable, mixed communities and the overall effect of their policies on local neighbourhoods;

- Demonstrate openness, transparency and fairness;

- Ensure decisions are evidence based and be able to demonstrate how decisions have been reached in each case;

- Take into consideration the vulnerability of tenants as set out in the Vulnerable Persons Protocol;

- There is a presumption that on renewal, a new fixed term tenancy will have a term equivalent to the previous term (i.e. a further five years) - unless there are exceptional reasons for not doing so.

The role of the borough council

The council recognises that it has no regulatory powers to direct Registered Providers in their decisions about the tenancy terms (lengths) they may offer. However, the council expects that Registered Providers in the borough will have regard to this Tenancy Strategy in their decision making process, both at the point a property is let and when the tenancy is reviewed so that the objectives (above) can be met.

Every advertisement that is made through the council's Choice Based Lettings system shows the tenancy term, as set by the RP for each individual property. The council will continue to advise prospective tenants that properties on which they are bidding may not be lifetime tenancies. The council will ensure that advice is given on the full range of housing options, the implications of flexible tenancies and will signpost tenants towards the relevant registered provider policies.

The council will work proactively with tenants and with registered providers to ensure that homelessness is avoided. This includes working with RPs to support tenants maintain their tenancies during their tenancy terms.

The council will work proactively with RPs to support them in developing robust, detailed and evidenced affordability and financial assessments for their tenants. Council officers will share with RPs their own expertise and experience in doing so to ensure consistency of approach and development of best practice. This includes developing and rolling out a training and support programme for RPs.

Monitoring and reporting

Each registered provider should monitor the effects of their policies and individual reviews on their tenants: the impact and implications of decisions made on individual households and on the availability of their stock.

The council will review this Strategy, initially one year after its adoption and publication. Thereafter the review will be conducted alongside reviews of the Housing and Homelessness Strategy 2013 – 2018.

As part of the Housing and Homelessness Strategy review, the Council will also monitor how Registered Provider tenancy reviews, and decisions that arise from them, impact on homeless enquiries and homeless presentations, and effectiveness of the Tenancy Strategy in preventing homelessness. Evidence to consider this would include:

- CBL bidding pattern for fixed term tenancies
- Outcome of tenancy reviews
- Use of vulnerable persons protocol as part of review process
- Numbers of renewed tenancies following review
- Numbers of homeless applications made as a consequence of termination of fixed term tenancies
- Outcome of homeless applications
- Number of void tenancies as a result of use of fixed term tenancies
- Housing management issues and actions for fixed term tenants (including arrears)
- Number and outcome of appeals / reviews against adverse decisions
- The way in which tenancy breaches are managed in relation to tenants behaviour or conduct during the term of the tenancy, any rent arrears that accrue and whether/how this is impacting on decisions to renew tenancies at the end of term.

Glossary

Affordable rent: rent charged in some social housing properties at a level of up to 80% of market.

Homes in Hants: the “HomeBuy” agent for Hampshire (Radian Housing). Homes in Hants administers applications from households interested in shared ownership or intermediate rent properties.

Intermediate rent: these properties are managed by RPs but are not social tenancies but assured shorthold tenancies such as can be found in the private rented sector. These properties are available at a less than market rent (80% of the market) - the subsidy specifically designed to support *prospective* home owners who are saving for a deposit to buy their own home.

Registered provider: RPs are independent housing organisations which provide social housing and are registered with the Homes and Communities Agency. It is a generic term and includes Housing Associations and Registered Social Landlords (RSLs).

Significant mental health / medical / learning disability:

People who

- experience a substantial disability as a result of the issue (such as an inability to care for themselves independently, sustain relationships or work);
- are either currently displaying obvious and severe symptoms; or have a remitting/relapsing condition;
- have experienced recurring crises;
- occasion significant risk to their own safety or that of others.

Shared ownership: shared ownership properties are part rent/part buy. The property title and the equity are split between the owner/occupier and a Registered Provider. A certain proportion or share of the property will be purchased with a mortgage and deposit. Rent will be charged on the remainder of the share (known as the “unsold equity”).

Tenancy Strategy

©Basingstoke and Deane Borough Council January 2013

Civic Offices
London Road
Basingstoke
RG21 4AH

Telephone 01256 844844
www.basingstoke.gov.uk
kate.randell@basingstoke.gov.uk

 Follow us on Twitter: twitter.com/BasingstokeGov

