

1.0 Background

The Localism Act 2011 requires local housing authorities in England to prepare and publish a Tenancy Strategy setting out the matters to which Registered Providers in its district (including the council and housing associations) must have regard to in formulating their tenancy policies.

Before adopting a Tenancy Strategy, or making a modification to it reflecting a major change of policy, the authority must send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and give them a reasonable opportunity to comment on it.

2.0 Relationship between schemes and strategies

This strategy sits below the Council's Housing Strategy and works in conjunction with the Council's Homelessness Strategy and lettings policy. The lettings policy will be reviewed to reflect the changes introduced by the Localism Act once the Department of Communities and Local Government (DCLG) Code of Guidance publishes the final version of the 'Allocation of accommodation: guidance for local housing authorities in England.'

The Tenancy Strategy addresses high level issues, and further detail on specific procedures will be provided in the council's Tenancy Policy.

3.0 Scope of Tenancy Strategy

This is Leeds City Council's draft Tenancy Strategy, which Registered Providers must have regard to when formulating their tenancy policies.

When developing their Tenancy Policies, the council expects Registered Providers to consult with the council to ensure that their policies reflect the expectations set out in this strategy, and with other key stakeholders. An equality impact assessment should be published alongside the Registered Provider's Tenancy Policy.

Registered Providers should publish their policies on their website and make copies available free of charge to anyone who requests a copy.

The Tenancy Strategy covers:

- 3.1 The types of tenancies they should grant, including the use of flexible tenancies
- 3.2 The circumstances in which they will grant a tenancy of a particular kind
- 3.3 Where they grant tenancies for set terms, the length that those terms will be
- 3.4 The circumstances in which they will grant a further tenancy on the ending of the existing tenancy
- 3.5 The introduction of the new 'affordable rent' product
- 3.6 The potential to make changes to the Leeds Homes Register and lettings policy (which link to the council's nomination agreements with housing associations)
- 3.7 Discharging the homelessness duty into the private rented sector
- 3.8 General tenancy management issues, specifically:
 - offering prospective tenants choice over where they live
 - tackling housing application and tenancy fraud
 - managing the rehousing of potentially dangerous offenders
 - adopting interventions to support tenants, sustain tenancies and prevent unnecessary evictions
 - promoting mobility
 - policy on granting 'discretionary succession' rights
 - CORE

The council is seeking views on the draft in the form of detailed questions on specific sections as well as general feedback and observations. The council will take responses received into account when finalising the Tenancy Strategy for approval by Executive Board.

The consultation period will run from June to September 2012.

Consultation questions
1. Does the draft Tenancy Strategy adequately cover the issues that Registered Providers should have regard to when developing their tenancy policies?
2. If not, what other issues should be covered?

4.0 Key principles

It is important to clarify at the outset that the council does not have a set position in relation to the use of fixed term tenancies for council tenants. The consultation process will determine the council's approach and the final version will be subject to approval by the council's Executive Board.

However, council officers are proposing that we maintain the use of lifetime tenancies in most cases at this time. Current social tenants will normally retain their current terms; if they move to another social rented property they will be offered a tenancy with no less security than they currently have, and on same social rent terms.

The Tenancy Strategy will be reviewed periodically in response to legislative changes and guidance, subject to council's Executive Board approval. Before adopting a tenancy strategy, or making a major modification, the authority must send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing in its district, and give them a reasonable opportunity to comment on it.

Reviews will be accompanied by the publication of an Equality, diversity and community cohesion (EDCC) impact assessment.

5.0 Draft Timetable

Date	Action
24 May 2012	Deadline for report - June Executive Board
20 June 2012	Executive Board meeting – report seeking approval to consult
June – Sept 2012	Consultation period
11 Oct 2012	Deadline for report – November Executive Board
7 Nov 2012	Executive Board approval to implement Tenancy Strategy
Date to be confirmed	Publish final version of Tenancy Strategy and implement

6.0 Types of tenancies

6.1 General requirements

Registered Providers are required to 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 stock.¹

¹ The Regulatory Framework For Social Housing In England From April 2012, HCA

In their tenancy policy, Registered Providers must set out:

- the type of tenancies they will grant
- the length of those terms, which should only be granted for less than 5 years in exceptional circumstances
- the circumstances in which they will grant tenancies of a particular type.
- any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period
- the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property
- the way in which a tenant or prospective tenant may appeal against the length of fixed term tenancy offered, the type of tenancy offered, or against a decision not to grant another tenancy on the expiry of the fixed term
- their policy on taking into account the needs of households with children, and those who are vulnerable due to age, disability, illness, which should include the provision of tenancies which offer a these customers reasonable degree of stability
- the advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.

6.2 Presumption of security

The council would normally expect Registered Providers to offer the most secure form of tenancy, namely:

- Council: Introductory / Secure tenancies (also Family Intervention Tenancies)
- Registered Providers: Starter tenancies / Assured tenancies

Council officers propose that the council does not introduce fixed term tenancies at this time, and only to do so following full consultation with key stakeholders.

Council officers are proposing that the council will only consider the use of fixed term tenancies in limited circumstances, where this would achieve more efficient use of social housing. Any decision to introduce fixed term tenancies would be subject to approval by Executive Board following consultation and an Equality, diversity and community cohesion (EDCC) impact assessment.

The council understands the rationale for Registered Providers using fixed term tenancies to achieve certain outcomes, such as:

- when rehousing tenants with a poor tenancy record in terms of severe antisocial behaviour or rent arrears.
- to reduce under occupancy which arises as family members grow up and leave home – our expectation would be the tenancy period would as a minimum reflect the date the youngest child reached the age of 16

However, council officers are proposing that the council does not support the use of fixed term tenancies:

- to require a tenant whose household income has increased during the tenancy term to move
- for customers rehoused in sheltered or extra care accommodation, or older customers
- for disabled tenants including those living in an adapted property as well as disabled tenants who do not require major adaptations
- for vulnerable customers, for example, people in receipt of Social Care services who are assessed as being in critical and substantial need, as well as care leavers, households with looked after children, or where there are safeguarding concerns

3. Do you support the use of flexible (fixed term) tenancies by the council and housing associations? (please give reasons)
4. Do you agree that the specific customer groups listed above should not normally be offered flexible (fixed term) tenancies?

6.3 Procedure on expiry of fixed term tenancies

On the expiry of the initial fixed term, the council expects Registered Providers to review the tenant's circumstances, taking into account the original reasons for granting the fixed term tenancy, and make a decision to either:

- Renew the tenancy for another fixed term
- Offer a secure / assured tenancy
- Assist the tenant to find alternative accommodation

The decision whether to renew should take account of the availability of an alternative suitable property to meet the household's current assessed need. The Registered Provider should begin the review process at least 6 months before the fixed term tenancy is due to expire.

Registered Providers must demonstrate in their tenancy policies that they will provide appropriate advice and assistance to tenants with alternative housing options in the event that they decide not to grant another tenancy.

Registered Providers who decide to use fixed term tenancies should assess the current circumstances of the household and the availability of suitable alternative accommodation.

This should include, but not be limited to:

- household composition
- current housing need
- tenancy conduct during initial flexible period
- whether best use of stock is being achieved eg overcrowding / under occupation
- health and disability issues
- vulnerability of any household member
- current income, job security, work location
- formal and informal support networks including family connections
- schooling

Whether a fixed term tenancy is offered may also depend on the type of property being let, eg sheltered accommodation, family home etc.

Registered Providers should consider each case individually, and where relevant, liaise with colleagues in Adult Social Care and Health.

The Registered Provider must write to the tenant giving the reasons for their decision, and explaining how the tenant may appeal against or complain about the length of fixed term tenancy offered, the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term.

The council expects the Registered Provider to have an independent appeals process which should include detail of:

- Who manages appeals process (senior officer not involved in the original decision)
- The form an appeal must be made in (for example, whether it must be made in writing)
- The timescales for allowing and responding to an appeal
- The procedures to be followed to ensure decisions are compliant with Human Rights Act Article 8
- What further remedies are available to the customer, including the Housing Ombudsman
- How the Registered Provider will monitor the outcomes of appeals

5. Does the Tenancy Strategy include the necessary safeguards for the use of flexible (fixed term) tenancies? If not, what other issues should be taken into account when deciding whether or not to renew a flexible (fixed term) tenancy?

6. (Registered Providers only) Do you intend to implement flexible (fixed term) tenancies?

7.0 The introduction of the new 'affordable rent' product

The council is proposing to introduce affordable rent in limited circumstances, for new build properties funded through the receipt of council house sales. However, the council accepts that some Registered Providers have already entered into agreements to develop affordable rent properties.

For Registered Providers who introduce affordable rent, the council expects them to advertise properties through the Leeds Homes choice based lettings scheme, clearly stating the property is subject to affordable rent, and which customer groups the product is aimed at.

Prior to letting an Affordable Rent property, the Registered Provider should undertake a financial assessment of the prospective tenant's ability to pay the rent, including whether the customer is likely to be affected by the DWP social sector size criteria (reduction in Housing Benefit paid to under occupying tenants of working age) or by the benefits cap.

The council would normally expect protection for existing tenants who move to an Affordable Rent property as a management transfer.

7. Should the council encourage housing associations to provide Affordable Rent as an option for those unable to afford market housing?
8. (Registered Providers only) Do you intend to implement affordable rent? If so, in what circumstances?
9. Which customer groups should Affordable Rent products be marketed to?

--

8.0 The Leeds Homes Register and lettings policy (nomination agreements)

Council officers are recommending that Registered Providers operating in Leeds become members of the Leeds Homes Register (a common housing register) and join the shared computer based waiting list system.

Benefits of joining the housing register include:

- the ability to identify housing need across the city
- reduction in duplication and costs
- the enhancement customer choice

Key issues:

- Council officers recommend that the council expects Registered Providers to have procedures in place to reduce fraudulent housing applications by obtaining identification and verifying information provided by customers (either through their own policy or following the council's)
- Council officers recommend that the council retains an open register, but that consultation is made on some restrictions – consultation on changes will commence once final government guidance on allocations is issued

10. Should the council operate an open housing register, without restrictions?
11. If no, which customer groups should be considered to be non-qualifying (ie not able to join the housing register)?

9.0 Discharge of homelessness duty into the private rented sector

The council will have the power to discharge its duty to homeless households by the offer of suitable accommodation in the private rented sector (PRS). (Previously the household could refuse an offer in the PRS and insist on an offer

with the Council or a Housing Association). This change is intended to respond to the shortage in social housing while also reducing the substantial costs that can arise from accommodating households in temporary facilities.

The minimum length of a private rented tenancy considered suitable for a homeless household will be 12 months. We appreciate that these changes can act as an additional tool to tackle and prevent homelessness. However, at present Council officers are recommending that Leeds City Council does not have any plans to use private tenancies to discharge the duty to homeless households. The Council's position may change following consultation.

12. Should the council use the new power to discharge its duty to homeless households in the private rented sector, provided the accommodation is suitable and available for a minimum of one year?

10.0 General tenancy management issues

10.1 General

The council expects all Registered Providers to:

- publish a Tenancy Policy
- provide information to customers
- conduct regular / annual tenancy visits
- assist the local authority to discharge its duties to rehouse customers in reasonable preference groups and other customers on Leeds Homes Register (through nominations agreements).

13. (Registered Providers only) When do you plan to publish your Tenancy Policy?

14. (Registered Providers only) How do you intent to assist the local authority achieve its strategic objectives through your Tenancy Policy?

10.2 Promoting mobility

The Secretary of State and the regulator have the power to give directions making it easier for tenants to exchange homes. All Registered Providers are obliged to subscribe to an internet based mutual exchange service (or pay the subscriptions of individual tenants who wish to exchange), allowing:

- a tenant to register an interest in arranging a mutual exchange through the mutual exchange service without payment of a fee
- the tenant to enter their current property details and the tenant's requirements for the mutual exchange property they hope to obtain
- the tenant to be provided with the property details of those properties where a match occurs

Registered providers shall ensure the provider of the internet based mutual exchange service to which they subscribe is a signatory to an agreement, such as *HomeSwap Direct*, under which tenants can access matches across all (or the greatest practicable number of) internet based mutual exchange services. Registered providers shall take reasonable steps to publicise the availability of any mutual exchange service(s) to which it subscribes to its tenants.

Registered providers shall provide reasonable support in using the service to tenants who do not have access to the internet.

Leeds received funding from Communities and Local Government Vanguard project to develop its mutual exchange scheme. All tenants of Registered Providers in Leeds are able to register on the scheme for free.

The council expects that existing social tenants should be allowed to retain their security when they exchange their property.

The council expects that all Registered Providers in Leeds work to a common, city wide mutual exchange policy.

15. (Registered Providers only) How do you promote mobility for your tenants?

10.3 Tackling housing application and tenancy fraud

In addition to undertaking checks at the application and lettings stage, the council expects Registered Providers to include a statement in their Tenancy Policy on reducing tenancy fraud; to monitor and report on the outcomes of interventions (fraud investigations) and participate with the council's citywide housing fraud initiative.

The council promotes the use of annual tenancy visits, requiring photo identification at application and sign up stages, and participating in data matching exercises to reduce fraud.

16. (Registered Providers only) What procedures do you have in place to tackle housing fraud?

10.4 Offering prospective tenants choice over where they live

The council expects Registered Providers to include a statement in their Tenancy Policy on how they offer choice to tenants, including participation in the Leeds Homes CBL scheme.

17. (Registered Providers only) What is your policy on offering choice to current and prospective tenants?

10.5 Making best use of stock

The council expects Registered Providers to develop their policy so as to minimise under occupation and overcrowding as far as possible at the point of the letting and through the nomination agreements.

The council also expects Registered Providers to assist working age under occupying tenants affected by the DWP Social Sector Size Criteria restrictions on housing benefit.

18. What support should be offered to overcrowded and under occupying tenant in general, and specifically to tenants affected by Welfare Reform?

10.6 Adopting interventions to support tenants, sustain tenancies and prevent unnecessary evictions

The council expects Registered Providers to outline their procedures to support tenants and to prevent unnecessary evictions, particularly in relation to households with dependent children and vulnerable members, and to households affected by Welfare Reform measures.

The council expects possession action to be taken only as a last resort, when all other interventions have failed. Registered Provider should liaise with the council's Housing Options Service at an early stage to prevent homelessness or arrange alternative housing. The council will seek to develop a joint protocol with Registered Providers to prevent homelessness.

19. What procedures should be in place to sustain tenancies and ensure possession action is only taken as a last resort?

10.7 Policy on granting 'discretionary succession' rights

The Localism Act abolishes the right to succession and assignment (other than by way of a mutual exchange) to anyone other than the deceased's spouse, civil partner or partner. Other family members will no longer have an automatic right to succeed to a local authority tenancy.

The council will review its tenancy agreement, and develop its policy on wider succession rights, but in the meantime wider family members (and all existing tenants) retain this right.

Registered Providers may consider other family members who are unable to succeed as a group as appropriate to be offered a 2 year fixed term tenancy.

20. Which customer groups should be granted additional succession rights?

--

10.8 Managing the rehousing of potentially dangerous offenders

The council expects all Registered Providers operating in Leeds to sign the council's joint protocol with West Yorkshire Probation on managing potentially dangerous offenders in order to manage risk effectively.

21. (Registered Providers only) How do you manage the rehousing of potentially dangerous offenders?

--

22. Do you have any other comments about the draft Tenancy Strategy?

--

Consultation questions
1. Does the draft Tenancy Strategy adequately cover the issues that Registered Providers should have regard to when developing their tenancy policies?
2. If not, what other issues should be covered?
3. Do you support the use of flexible (fixed term) tenancies by the council and housing associations? (please give reasons)
4. Do you agree that the specific customer groups listed in the draft strategy should not normally be offered flexible (fixed term) tenancies?
5. Does the Tenancy Strategy include the necessary safeguards for the use of flexible (fixed term) tenancies? If not, what other issues should be taken into account when deciding whether or not to renew a flexible (fixed term) tenancy?
6. (Registered Providers only) Do you intend to implement flexible (fixed term) tenancies?

7. Should the council encourage housing associations to provide Affordable Rent as an option for those unable to afford market housing?

8. (Registered Providers only) Do you intend to implement affordable rent? If so, in what circumstances?

9. Which customer groups should Affordable Rent products be marketed to?

10. Should the council operate an open housing register, without restrictions?

11. If no, which customer groups should be considered to be non-qualifying (ie not able to join the housing register)?

12. Should the council use the new power to discharge its duty to homeless households in the private rented sector, provided the accommodation is suitable and available for a minimum of one year?

13. (Registered Providers only) When do you plan to publish your Tenancy Policy?

14. (Registered Providers only) How do you intend to assist the local authority achieve its strategic objectives through your Tenancy Policy?

15. (Registered Providers only) How do you promote mobility for your tenants?
16. (Registered Providers only) What procedures do you have in place to tackle housing fraud?
17. (Registered Providers only) What is your policy on offering choice to current and prospective tenants?
18. What support should be offered to overcrowded and under occupying tenant in general, and specifically to tenants affected by Welfare Reform?
19. What procedures should be in place to sustain tenancies and ensure possession action is only taken as a last resort?
20. Which customer groups should be granted additional succession rights?
21. (Registered Providers only) How do you manage the rehousing of potentially dangerous offenders?
22. Do you have any other comments about the draft Tenancy Strategy?