

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 and the Department of Communities and Local Government (DCLG) Code of Guidance on Allocations published in July 2012.

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 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 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

The council consulted on a draft version and has incorporated the feedback received into this final version of the Tenancy Strategy.

4.0 Key principles

The council proposes to maintain the use of introductory and secure tenancies in its stock.

The council expects that current social tenants will normally retain their current terms, and 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 will send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing in the 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 Types of tenancies

5.1 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

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 five 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 in general needs housing for a term of less than five years following any probationary period. In such cases the minimum period should not be for less than two years.
- 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 a reasonable degree of stability; and
- the advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.

5.2 Presumption of security

The council expect that normally Registered Providers will offer the most secure form of tenancy in general needs accommodation, namely:

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

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

Council tenancies

The council does not propose introducing flexible tenancies at this time, and would only do so following further consultation with key stakeholders.

Any decision to introduce flexible tenancies would be subject to approval by Executive Board following consultation and an Equality, diversity and community cohesion (EDCC) impact assessment.

Registered Provider tenancies

The council understands the rationale for Registered Providers using flexible 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, the council does not support the use of flexible 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, people with mental health issues or where there are safeguarding concerns

This list is not exhaustive.

Where flexible tenancies are used, Registered Providers should provide clear information about the terms of the tenancy and procedure on expiry to the prospective tenant.

5.3 Procedure on expiry of flexible 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 flexible tenancy, and make a decision to either:

- Renew the flexible 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 flexible tenancy is due to expire. It may be appropriate in some cases to begin the review process before this time.

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 flexible 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, including mental health issues
- whether any adaptations have been made to the property during the initial tenancy term
- vulnerability of any household member
- current income, job security, work location
- formal and informal support networks including family connections
- schooling

Whether a flexible tenancy is offered may also depend on the type of property being let, eg sheltered, extra care, general needs accommodation etc.

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

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 (this should be a 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 compliance 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

6.0 The introduction of the new 'affordable rent' product

The government has introduced a new Affordable Rent which can be offered to new tenants at a rent higher than social rent and initially at a maximum of 80 per cent of local market rents.

Affordable Rent offers an option of good quality accommodation for households who are unable to afford market housing.

Some Registered Providers have already entered into agreements to introduce Affordable Rent and are planning to convert a proportion of stock to Affordable Rent.

The council expects landlords who introduce Affordable Rent 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 Department for Work and Pensions' social sector size criteria (reduction in Housing Benefit paid to under occupying tenants of working age) or by the benefit cap. Careful consideration should be given to ensure housing costs are not a barrier to employment for households in receipt of benefit.

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

7.0 The Leeds Homes Register and lettings policy

The council recommends that Registered Providers operating in Leeds consider becoming 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

The council expects Registered Providers to have procedures in place to identify fraudulent housing applications by obtaining identification and verifying information provided by customers (either through their own policy or following the council's procedures).

When the reviews its lettings policy it will include a Qualification Criteria, setting out who can appear on the housing register. Changes to the lettings policy will be subject to separate consultation and approval by Executive Board. The council would welcome developing a common allocations policy with interested Registered Providers.

8.0 Discharge of homelessness duty into the private rented sector

From November 2012, the council has a new 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 council considers this new power represents an additional tool to tackle and prevent homelessness.

The minimum length of a private rented tenancy will be 12 months, and the authority's duty to the homeless household continues if the tenancy breaks down within 2 years through no fault of the tenant. The accommodation must be suitable in terms of its physical condition, electrical and fire safety.

9.0 General tenancy management issues

9.1 General

The council expects all Registered Providers to:

- publish a Tenancy Policy and 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).

9.2 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 normally 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.

9.3 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 welcomes 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.

9.4 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 Choice Based Lettings scheme.

9.5 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 Department for Work and Pensions' Social Sector Size Criteria restrictions on housing benefit.

9.6 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 Providers should, where appropriate, consider extending starter or probationary tenancies (housing associations) or Introductory Tenancies (council). The council may also consider demoting a Secure Tenancy.

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.

9.7 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, or joint tenant. Other family members will no longer have an automatic right to succeed to a local authority tenancy.

The council's current tenancy agreement (2008) allows wider family members (and all existing tenants) to succeed. Registered Providers may wish to consider

allowing wider family members to succeed or, if appropriate offering a flexible tenancy.

9.8 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.