

# Tenancy Strategy

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# Chorley Council's Tenancy Strategy

## **1.0 Introduction and Background**

### **1.1 Introduction**

The Localism Act 2011 requires each Local Housing Authority to prepare its own Tenancy Strategy, and Registered Providers of social housing are required to have regard to the strategy when developing their own tenancy policies. The Localism Act 2011 allowed Registered Providers of social housing to use a new housing product for social tenants called Affordable Rent which permits rents to be charged of up to 80% of local market rents, and gives the landlord scope to offer flexible/fixed term tenancies as opposed to the usual lifetime tenancies associated with Social Rent tenancies.

The scope of the Tenancy Strategy as defined by the Localism Act 2011 includes:

- The kinds of tenancies they will grant;
- Where they grant tenancies for a fixed term, the length of those terms;
- The circumstances under which they will grant tenancies of a particular type;
- The circumstances under which a tenancy may or may not be reissued at the end of the fixed term, in the same property or in a different property.

Registered Providers in the borough must have regard to the Council's Tenancy strategy when developing their own tenancy policies.

### **1.2 Aims of the Strategy**

The strategy seeks to influence the provision and delivery of housing in the borough and work towards achieving the following aims:

- Ensure that vulnerable people are granted tenancies which offer a stable environment and are conducive to meeting their support needs.
- Ensure that fixed term tenancies do not increase the number of households threatened with homelessness in the borough.
- Make best use of the social housing stock in Chorley

- Encourage the continuing high delivery of Affordable Housing in Chorley

### **1.3 Summary of Chorley Council's Expectations**

The following is a summary of the main expectations of the Council stated in this document:

- The Council expects that existing traditional Social Rent properties provided with either grant, developer or Council capital contributions will remain Social Rent and therefore will not be converted to Affordable Rent;
- The Council expects all new social housing provided via developer or Council contributions will be Social Rent tenure and not Affordable Rent;
- The Council expects the vast majority of the social housing stock within the borough to remain Social Rent, and any conversions to Affordable Rent will already have been formally agreed as part of the 2011-15 Affordable Housing Programme offers;
- The Council expects that in the interests of sustainable communities, lifetime tenancies will be offered when the Affordable Rent tenure is granted, except in exceptional circumstances;
- The Council expects that any fixed term tenancies will be a minimum of five years;
- The Council expects that housing where support is a condition of the tenancy will not use Affordable Rent;
- The Council expects that fixed term tenancies will not be used for designated older persons' accommodation, even if Affordable Rent is a condition of funding;
- The Council expects that Affordable Rent levels will not exceed the Local Housing Allowance.

### **1.4 Housing Tenure and Allocations in Chorley**

As of the 1<sup>st</sup> April 2012, the total housing stock in Chorley was 46,868, with a relatively low 13% of the total, around 6,100 being social housing. The Council transferred all its housing stock through a Large Scale Voluntary Transfer (LSVT) to Chorley Community Housing in April 2007 and therefore no Local Authority managed

or owned housing stock remains in the borough. Therefore this strategy only refers to Registered Providers who currently are traditional Housing Associations in the borough. The private rented sector in the borough is relatively small at 9% with owner occupation at 78%.

The Council has a number of key responsibilities regarding the allocation of social housing (these are set out in Part VI of the Housing Act 1996 as amended by the Homelessness Act 2002) including a statutory duty to have a published Allocations Policy and to allocate social housing in accordance with certain prescribed conditions. Since March 2011, Chorley Council has participated in a sub-regional Allocations Policy, which is operated via the Central Lancashire Sub-Regional Choice Based Lettings (CBL) partnership, 'Select Move', in order to allocate social housing.

Select Move is a partnership comprising of the majority of Registered Providers in Central Lancashire plus the three Local Authorities in the area (Chorley, Preston and South Ribble). Select Move provides the common housing register for the Central Lancashire councils who no longer keep separate housing registers. On the 1<sup>st</sup> April 2012 there were 1,450 'active' applicants living in Chorley on the Select Move housing register. On average from 2008 to 2011 there were been 433 social lets per year. With supply unable to meet demand for social housing, it is important that all areas of allocating social housing are managed effectively to meet the needs of the boroughs residents.

The majority of Social Rent properties in Chorley are let through Select Move, and in future it is anticipated that all such properties will be allocated this way using the joint Allocations Policy to ensure fairness and transparency. The Council expects that any properties let via Select Move as the Affordable Rent tenure will clearly state this on the advert, and that fixed term tenancies will also be clearly indicated along with the length of the fixed term. Registered Providers should ensure that Affordable Rent properties are clearly distinguishable from traditional Social Rent properties on the adverts.

## **1.5 Nominations**

As a non stock holding authority, the Council relies on Registered Providers to make available nominations for a proportion of their stock in order to meet its obligations under homelessness and allocations. The Council expects that for our LSVT partner Chorley Community Housing, the nominations to be provided for 75% of their vacant stock.

For all other Registered Providers with stock in the borough, the Council expects these partners to provide nominations to 50% of their vacant stock.

The Council promotes and supports the use of choice based lettings as an effective and transparent way of allocating social housing and therefore expects all RPs in the borough to participate in this (where such scheme exists). Partners in the Select Move CBL scheme are required to commit to allocating 100% of all lets via this mechanism.

## **2.0 Affordable Rent and Fixed Term Tenancies**

### **2.1 Affordable Rent**

The new tenure option available to Registered Providers is Affordable Rent and it allows rent to be set up to 80% of local market rents (providing they have a delivery agreement with the Homes and Communities Agency), and this is expected in most cases to be above the 'target' rents (a formula used to calculate rent for Social Rent properties). The extra money generated will then help to fund more affordable housing. The vast majority of new rented affordable housing financed by the Homes and Communities Agency (HCA) in the 2011-15 round, is intended to be for Affordable Rent with a few exceptions. As well as new build properties, Registered Providers incorporated proposals for a number of their existing Social Rent properties they would convert at re-let stage to Affordable Rent in May 2011, as part of their offers to the HCA for Affordable Homes Programme funding 2011-15. In effect, the 'conversions' to Affordable Rent have assisted the Registered Providers to demonstrate better value for money by reducing the level of grant needed to provide each unit of new affordable housing. The Council engaged in discussions with Registered Providers at this stage to ensure there was agreement and clarity regarding proposed conversions in Chorley. The Council only expects there to be conversions where they have been previously agreed and not to exceed the stated quantity.

As well as the extra revenue for affordable housing development, the other main feature of Affordable Rent is the choice given to landlords regarding what type of tenancies they grant. Affordable Rent allows flexible or fixed term tenancies to be granted, which is considered to make better use of social housing which is a scarce resource in high demand. Fixed term tenancies may be granted in order for Registered Providers to manage their housing stock more effectively to meet housing need.

One of the key disadvantages of the affordable rent model is that as it is a higher rent, this can present a disincentive for those who are looking to move into paid employment.

## **2.2 Fixed Term Tenancies**

The Council expects that for the majority of Affordable Rent tenure properties, that some type of 'lifetime' tenancy will be used in the interest of building sustainable communities. The Council understands that housing stock of a particular type which is in short supply and high demand may present a strategic case for fixed term tenancies. However, generally the Council does not want to see an increase in the levels of turnover created by a disproportionate amount of fixed term tenancies or worse, an increase in homelessness. Any increase in fixed term tenancies in the borough may be a risk to the Council in terms of increased demand for housing options services, and this needs to be balanced against the benefits of such flexibility.

Fixed Term tenancies are expected to last for 5 years, but in exceptional circumstances may be for as little as two years. Registered Providers are required to set out in their tenancy policies the lengths of fixed term tenancies they grant, and exceptional circumstances under which they may grant a tenancy of less than 5 years in general needs accommodation (following a probationary period, if applicable). In exceptional circumstances the fixed term tenancy granted may be as short as 2 years.

At the end of a fixed term tenancy, the Council expects the Registered Provider to follow their policies and procedures for determining if the tenancy is to be renewed.

The Council would like to see Registered Providers to make transparent and balanced decisions regarding tenancy renewals and to consider use of peers in ensuring those decisions are objective and multi dimensional.

In cases where a tenancy is not renewed, the Council would expect the Registered Provider to find the household an alternative tenancy if possible and appropriate. If an alternative tenancy is not possible or appropriate, then advice and assistance must be given at the earliest stage, no less than six months before the tenancy ends (minimum notice period).

If a household is at risk of losing their tenancy, because it is being ended without renewal, and there is no offer of an alternative property, then the Registered Provider must refer the household to the council's Housing Options Team as soon as possible (this would be expected to be at least 6 months before the end of the tenancy). In all circumstances, the Registered Provider and the Council should work together to prevent households who are coming to the end of flexible tenancies being threatened with homelessness.

## **2.3 Introductory or Starter Tenancies**

For new social tenants it is common practice for Registered Providers to offer a fixed term introductory or starter tenancy as good housing management practice. The revised tenancy standard allows introductory and starter tenancies to precede a fixed term tenancy, and the probationary period can be extended up to a period of 18 months by the Registered Provider.

## **3. The End of a Fixed Term Tenancy**

Registered Providers are required to specify in their tenancy policies the circumstances which determine whether or not they would grant another tenancy at the end of a fixed term.

The Council expects that a household would be granted a further fixed term tenancy towards the end of their current tenancy unless there has been a significant material change which affects their housing requirements which may include:

- The household has become smaller and they are under-occupying their current home by one bedroom or more;
- There has been a significant relative increase in income which negates any need for social housing;
- The property has become unsuitable for the household's need due to major adaptations or accessibility features that are not longer needed.

The Council expects tenancy breaches such as anti-social behaviour, damage, unauthorised adaptations and rent arrears to be managed through existing mechanisms and not by ending fixed term tenancies. The Council expects tenants to be supported by the Registered Providers to successfully maintain their tenancies, either by their own staff or by referrals to appropriate partner agencies such as floating support.

Cases of over or under occupation should also be dealt with using existing mechanisms. The Council expects to be consulted by the Registered Provider before any decision is made not to grant a further tenancy. The inclusion of the Council in the decision making processes for granting and renewing would be very much welcomed by the Council and regarded as best practice.

In cases of under-occupation and unsuitability, the council expects the Registered Provider to offer a suitable tenancy in an alternative property, if there is still a need for social housing. If an alternative tenancy is not possible or appropriate, then advice and assistance should be given at the earliest stage, which would be at least

six months before the tenancy ends (minimum notice period), and this advice and assistance should be set out in the Registered Providers tenancy policy.

If a household is under threat of their tenancy ending without renewal or an alternative tenancy being offered, the Registered Provider should refer the household to the Council's housing options teams as soon as possible. In all circumstances the Registered Provider and the Council should work together to prevent households who are coming to the end of flexible tenancies being threatened with homelessness.

There is no statutory provision to allow tenants to give notice to end a fixed term Affordable Rent tenancy; however the Council expects a contractual provision written into the tenancy agreement which allows the tenant to give reasonable notice. The notice period is expected to be 4 weeks in line with Local Authorities' flexible tenancies.

#### **4. The Appeals Procedure**

Registered Providers must include in their tenancy policies, a clear appeals procedure that gives the opportunity for tenants to understand and respond to a decision not to renew their fixed term tenancy (similar to the Review Procedure required by law for Local Authorities). The procedure should include:

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

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

Tenancy Policies should have regard to the Human Rights Act Article 6 and Article 8, and therefore ending a tenancy should be a proportionate means of achieving a legitimate aim.

## **5. Tenancy Types**

As part of their tenancy policies, Registered Providers are required to set out what types of tenancies they will offer. The Council has consulted with Registered Providers in the borough and following these discussions expects the large majority of tenancies in the borough to be Social Rent lifetime tenancies with a small minority of Affordable Rent lifetime tenancies. Affordable Rent fixed term tenancies were not indicated as being popular with Registered Providers in the borough. It is expected that the above tenancy types will usually follow an introductory or starter tenancy for new social tenants.

Registered Providers are required to set out in their tenancy policies the circumstances under which certain tenancy types will be offered. Following Registered Provider feedback, the Council expects that the vast majority of relets will be Social Rent tenancies (or leading to the same after a probationary period). However, the Council recognises the commitment Registered Providers have made in their Affordable Homes Programme offers to convert a limited amount of tenancies to Affordable Rent. The Council also recognises that HCA funded social housing in the current Affordable Home Programme will be offered on the basis of Affordable Rents.

Registered Providers are required to set out in their tenancy policies the circumstances under which fixed term tenancies will be granted. After the probationary period, the Council expects fixed term tenancies to be the exception from Registered Providers feedback, but also expects that Providers make it clear the exact circumstances in which a fixed term tenancy will be offered under the Affordable Rent model.

## **6. Tenancy Conversions**

A key principle of the Affordable Rent tenure is to allow new development of affordable housing through the conversion of tenure from Social Rent to Affordable Rent when properties are re-let. Indication from Registered Providers suggests that at least 80% of Social Rent properties will not be considered for conversion.

Where Social Rent properties have been provided through Section 106 agreements, Unilateral Undertakings or similar legal agreements (including but not limited to all types of developer contributions) between the Council, a developer or Provider, Chorley Council will require these properties to remain as Social Rented and not be converted to Affordable Rent. If the Council has contributed either land or capital to subsidise the provision of Social Rent properties, then the Council expects these properties not to be converted to Affordable Rent.

The Council is mindful that previous agreements may have referred to 'rented' or 'affordable rented' (lower case 'a') or similar, when only Social Rent existed, but was

not explicitly stated. The Council expects all previous agreements concerning rented properties that do not state Affordable Rent (upper case 'A' meaning the new tenure) should be considered as Social Rent and therefore not converted to Affordable Rent.

The Council expects that a Registered Provider will not convert any Social Rent property to Affordable Rent if the acquisition, development or improvement of the property was contributed to by a developer through planning obligations or the council through land contribution (nil receipt or discounted) capital contribution, or any similar assistance, e.g. the developer preparing the land, surrounding land or facilities to assist the development.

## **7. Further Affordability and Tenure Considerations**

### **7.1 Affordable Rent Levels**

The Council expects that when setting Affordable Rent levels that as well as being a maximum of 80% of the local market rent, that the Local Housing Allowance should also be considered as a ceiling. There are many rural areas, and other areas of high environmental quality in the borough where market rents would be significantly higher than the average for the housing market area. However, setting rent levels above the Local Housing Allowance rates is likely to make the Affordable Rents unaffordable to households in need of social housing in the more expensive areas of the borough. Rents higher than Local Housing Allowance rates could be a barrier to newly forming households, i.e. younger people, remaining in the rural community where they have grown up.

### **7.2 Future Developments**

The Council will endeavour to ensure that future developments with a developer contribution or Council contribution will only include Social Rent and Intermediate Home Ownership tenures as the affordable housing provision. Affordable Rents will not be permitted to be used to substitute for either Social Rent or any Intermediate tenure.

However, the Council recognises that through current funding arrangements for Government/HCA funded social housing will almost exclusively be Affordable Rent, and the Council fully supports Affordable Rent developments funded by the HCA or Recycled Capital Grant Funding providing they accord with planning policy.

### 7.3 Bedroom Sizes

Registered Provider modelling has suggested that the discrepancy between Target Rents and Affordable Rents increases in line with the number of bedrooms provided. Therefore the Council would expect that for properties that have four bedrooms or more, that Registered Providers give careful consideration with regard to tenure. Whilst it is recognised that larger properties may be the exact type in short supply that fixed term tenancies could be aimed at fully utilising, there may be affordability issues. Housing Benefit changes are due in April 2013 to discourage under-occupation, however they would not affect a lot of economically active households who do not receive help with housing costs. Therefore the benefit changes alone would not provide the incentive not to under-occupy for all households, and other methods may need to be considered.

### 7.4 Vulnerable People

The Registered Providers' tenancy policies should take into account the needs of vulnerable households, and in doing so ensure tenancies granted provide a reasonable degree of stability. According to the Regulatory Framework, vulnerability can be due to a household having children, disability, illness or age. However, there are other vulnerable households who receive housing related support via the Supporting People programme (or self payers through the same or similar providers) who are not explicitly stated in the above groups.

The Council expects that most vulnerable households would not be suitable customers for the Affordable Rent tenure if they are in supported accommodation for which support is a condition of the tenancy. In most cases, the accommodation will be classed as 'exempt accommodation' and the rents would be higher than what would be achieved with an Affordable Rent, therefore Affordable Rents would be likely to lose money for the registered provider and would not be used.

Short Term Supported Accommodation is usually required under the Supporting People programme to be for a *maximum* of 2 years, and therefore not compatible with the *minimum* term (in exceptional circumstances) for an Affordable Rent fixed term tenancy, as the aim of the support service is to support their client to more independent living in less than 2 years. Therefore Affordable Rent is not feasible for short term accommodation based support.

Vulnerable Households in need of support are likely to be in need of a stable environment and therefore in most cases, fixed term tenancies would not be appropriate for long term accommodation based supported households. It is important that client groups such as People with Learning Disabilities, Physical Disabilities and Mental Health Problems have a high level of security of tenure due to the nature of their support needs.

Older Persons' accommodation is the only long term Supporting People client group where setting the rent at 80% of local market rents is likely to generate an increase in rent. However, in older people's schemes with communal facilities and/or support provided on site, setting the rent at Affordable Rent levels may not be entirely feasible. Where support charges are included in the rent, this would go against the principles of personalisation and choice. Therefore it may be that the Affordable Rent model is unlikely to be used for older people's sheltered schemes with support on site due to rent complications.

For older people's accommodation where support is not a condition of the tenancy, for example new bungalows built with HCA grant, it may be necessary to use the Affordable Rent tenure. However it should be ensured that rents are affordable for the target client group and would therefore not be expected to exceed the Local Housing Allowance. However, in line with all long term Supporting People client groups, fixed term tenancies could cause unnecessary uncertainty which would not be conducive to the wellbeing of older people.

Therefore the Council would not consider fixed tenancies to be appropriate for the Supporting People client groups listed above in this section whether older people, people needing short or long term accommodation based support. Also in most cases the Affordable Rent tenure would not be feasible, although it may be necessary for some older people's new build accommodation.

## **8. Further Tenancy Policy Considerations**

### **8.1 Succession of Tenancy**

Under the Localism Act 2011 statutory succession rights have been preserved which Registered Providers must comply with. The Localism Act 2011 also allows Registered Providers to express terms in tenancy agreements to give assured tenants additional succession rights if they so wish. The Council expects Registered Providers to make clear their policy regarding the granting of discretionary succession rights and in particular take account of the needs of vulnerable household members when doing so.

### **8.2 Right to Buy and Acquire**

Affordable Rent and flexible tenancies will not affect any household's Right to Buy in the borough as there have been no Council housing stock tenancies granted in the borough since 2007. The Right to Acquire option will be available to tenants paying Affordable Rent whether they are have lifetime or flexible tenancies, providing they meet the qualifying criteria.

### **8.3 Mutual Exchange**

Affordable Rent tenants have the same rights as other social tenants to exchange their property. The exact specifications are set out in the Localism Act 2012 and the Transfer of Tenancies and Right to Acquire (Exclusion) Regulations 2012.

### **8.4 Complaints**

It is expected that Registered Providers comply with the revised complaints procedures introduced by the Localism Act 2011 for complaints made against a Social Landlord. Registered Providers should deal with complaints in accordance with their own complaints procedures, and should co-operate with the Council if complaints are made by a Councillor or other designated person.

## **9. Risks, Equality Consultation & Review Process**

### **9.1 Risks**

The following risks have been identified:

- Affordable Rents may not be affordable to social tenants in some areas of the borough where rents are highest;
- Affordable Rent fixed term tenancies may lead to an increase in the numbers of households put at risk of or becoming homeless.

It is hoped through this strategy and by working in partnership with Registered Providers in the borough these risks can be mitigated.

### **9.2 Equality Impact**

An Integrated Impact Assessment is being undertaken and will be completed as part of the consultation process.

### **9.3 Consultation and Review Process**

The formal consultation will commence on this strategy for 12 weeks on 22<sup>nd</sup> June 2012 and end on 14<sup>th</sup> September 2012.

The document will be reviewed on an annual basis after its adoption.