

Localism Act 2011: Requirement for Local Authorities to Produce a Tenancy Strategy

SUMMARY

- 1.1 The Localism Act 2011 provides the basis for a radical programme of reforms - reforms which will impact dramatically on the way social housing is resourced, allocated and managed. Derby's strategic approach to the utilisation of these reforms is set out in our Tenancy Strategy, the formulation of which is also a legal requirement of the Act.
- 1.2 The purpose of the Tenancy Strategy is therefore to set out how we will use these new freedoms provided by the Localism Act to better achieve our strategic housing goals. These goals are primarily to provide suitable and sufficient housing and related support for those in housing need while also promoting cohesive and balanced communities.
- 1.3 The Strategy sets out the basis for action on our own stock while also giving a steer to other registered housing providers (housing associations) as to the position of the Council on the key issues.
- 1.4 Potentially the most controversial new freedom relates to security of tenure for social housing tenants. That is, whereas previously new social tenants would expect to receive a lifetime tenancy, the position now is that Councils and other Registered Providers are able to grant new tenancies on a fixed term basis. At the end of the fixed term, subject to an assessment of suitability and continuing need, and subject to various safeguards, the tenancy may be renewed or allowed to expire. In the latter case the tenant will be asked to 'move on'.

RECOMMENDATION

- 2.1 That members of the AHH note the contents of the strategy and where appropriate participate in the consultation process
- 2.2 In addition to the meeting on March 19th, members may wish to join in the consultation process via the website at: <http://www.derby.gov.uk/tenancy-strategy/>

SUPPORTING INFORMATION

- 4.1 The Localism Act 2011 outlines a radical programme of reform which will impact on the way social housing is resourced, allocated and managed. Derby's strategic approach to the utilisation of these reforms is set out in our Tenancy Strategy – the formulation of which is also a legal requirement of the Act.
- 4.2 The purpose of the Tenancy Strategy is therefore to set out how we will use these new freedoms to better achieve our strategic housing goals. These goals are primarily to provide suitable and sufficient housing and related support for those in housing need while also promoting cohesive and balanced communities. The strategy sets out the basis for action on our own stock while also giving a steer to other housing providers as to the position of the Council on the key issues.
- 4.3 The key and potentially most controversial freedom legislated for relates to security of tenure for social housing tenants. That is, whereas previously new tenants would expect to receive a lifetime tenancy (following an introductory period), the position now is that Councils and Housing Associations are able to let to tenants on a fixed term basis. At the end of the fixed term, subject to an assessment of suitability and continuing need the tenancy may be renewed or allowed to expire, in the latter case with the tenant being asked to 'move on'. Where a decision to terminate is made, the outgoing tenant must be given at least six months notice and be provided with the reasons for the termination. The tenant can ask for a review of the decision and is also entitled to suitable advice over alternative housing options. One such option could be the offer of alternative Council or Registered Provider accommodation that now better meets that households needs.
- 4.4 The changes to security of tenure will affect new tenants only, with existing tenants being unaffected in the vast majority of cases. The only exception to this is where tenants voluntarily give up a secure tenancy to sign up for a fixed term tenancy when moving properties.
- 4.5 The Tenancy Strategy is therefore principally concerned with tenure reform. However, reforms in related areas such as to rent models, allocations policies and homelessness also impact, and in some cases overlap, with tenure issues. Furthermore, government guidance requires that tenancy strategies be 'consistent with' homelessness strategies and allocations policies. Consequently, the Strategy addresses not only tenure but also homelessness, allocations and rents.
- 4.6 As currently formulated the strategy is in draft form and subject to an extensive consultation which is now 'live'. It is open to all, including members of the public, though we will particularly target:
- registered providers;
 - charities and non-statutory agencies involved in the provision of housing or housing related support;
 - resident and tenants' groups

- households currently awaiting accommodation from the housing register.
- A full equalities impact assessment will also be carried out.

4.7 The key elements of the strategy are detailed in the table below.

Policy Area / Option	Key Considerations	Our Position
Fixed Term Tenancies	<ul style="list-style-type: none"> ▪ Insufficient supply of housing to meet the demand for it – more effective targeting of stock to those in need ▪ Risk of administration, bureaucracy, legal challenge, rent loss, voids ▪ May discourage aspiration and contribute to ‘residualisation’ of estates. 	<p>Targeted Implementation:</p> <ul style="list-style-type: none"> ▪ Used for all new general needs tenants but not for those in supported / sheltered / extra care housing etc. ▪ Renewal by default unless under occupation or redundant adaptations are present. ▪ A position on ending tenancies on basis of <i>income alone</i> subject to further consultation.
‘Affordable’ Rents	<ul style="list-style-type: none"> ▪ Additional funds for new build. ▪ Surpluses generated this way may be invested outside Derby. ▪ Impact on affordability. ▪ An element of affordable rent a requirement for most HCA development contracts 	<p>Partial Implementation:</p> <ul style="list-style-type: none"> ▪ No increases to 1 bed properties due to HB reform and extending of single person allowance to under 35 year olds ▪ Limited increases to larger properties (i.e. with 3 beds or more) where rises to the full 80% of market rent may impact on affordability.
Homelessness (Discharge of Duty by Offer in Private Sector)	<ul style="list-style-type: none"> ▪ Shortage of accommodation for those in most urgent need ▪ Ability to access private accommodation in locations where social housing is scarce ▪ Reducing cost of temporary accommodation 	<p>Widespread Implementation:</p> <ul style="list-style-type: none"> ▪ ‘Suitability criteria’ will apply with offers of accommodation based on the appropriateness of the property, rather than whether it is owned privately or by the Council (or a Housing Association)
Allocations	<ul style="list-style-type: none"> ▪ Many households currently on register with little genuine chance of being housed ▪ Excessive waiting times, particularly for larger properties ▪ Reducing unnecessary administration and bureaucracy 	<p>Comprehensive Review:</p> <ul style="list-style-type: none"> ▪ Possible restriction to the ‘reasonable preference groups’ with some supplementary categories to take account of local circumstances. ▪ ‘Local connection’ requirement may be weakened to promote mobility ▪ CBL also reviewed to see if alternate allocations processes are more appropriate

For more information contact: Background papers: List of appendices:	Appendix 1 – Implications Appendix 2 – Draft Tenancy Strategy – A Brief Summary of the Key Points Appendix 3 – Tenancy Strategy – Consultation Draft
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Appendix 1

IMPLICATIONS

Financial and Value for Money

- 1.1 a) Introducing fixed term tenancies with the consequent need for five yearly reviews may increase staffing costs. Additional legal costs may also be incurred if a decision to terminate a tenancy is challenged by the tenant. (These costs would be incurred in the first instance by Derby Homes as management agent of our stock)
- b) Changes to the discharge of our homelessness duty are expected to reduce the costs incurred in providing temporary accommodation.
- c) Streamlining/amending our allocations processes may incur 'one-off' transition costs but in the long term should reduce administration costs

Legal

- 2.1 A new form of tenancy agreement will need to be drafted to meet the requirements of the Act's proposals, which will detail not just the rights and obligations of the Council and prospective tenants but also the processes to be followed in property allocation and management. Clarity on the decision making principles involved in whether or not to extend or terminate a tenancy at the end of its fixed term is paramount to the success of the proposals, without which the Council may be vulnerable to challenge by those on the receiving end of an adverse decision.

Personnel

- 3.1 Introducing fixed term tenancies with the consequent need for periodic review may increase staffing requirements at Derby Homes. However, reviews are likely to be no more frequent than every five years so the extent of this impact is limited

Equalities Impact

- 4.1
 - Changes to tenancy terms are intended to promote the reuse of properties that have been adapted for disabled people. A quicker and more cost effective service in the supply of suitably adapted homes is expected to result in the long term.
 - These changes will also eventually impact on under-occupation, which is more prevalent amongst older age groups than younger age groups.

- The specific changes to the discharge of the homeless duty will impact on homeless households, who will no longer be able to 'insist' on social housing but may have to accept suitable accommodation in the private sector.

Health and Safety

5.1 None directly arising

Environmental Sustainability

6.1 None directly arising

Asset Management

7.1 Implementing 'affordable rents' may in future (subject to contractual arrangements with the Homes and Communities Agency) provide a means of providing additional funding to support building new council stock

Risk Management

8.1 Some of the proposed changes are potentially controversial, particularly those relating to the end of security of tenure for new tenants. As the document is subject to public consultation there may be adverse reaction from some quarters.

Corporate objectives and priorities for change

9.1 The changes proposed are principally concerned with more effective targeting of Council stock to those in greatest need. They are also concerned with more effective use of the private sector to increase choice and reduce costs. Consequently they contribute to our corporate objective of:

"...good-quality services that meet local needs"

Because suitable accommodation is essential to health and security, and because our housing and related support services are targeted at the most vulnerable; these changes also contribute to our corporate objectives concerning:

"...good health and well-being", and "...being safe and feeling safe".