

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting	Cabinet
2.	Date	19 December 2012
3.	Title	Rotherham's Strategic Tenancy Policy
4.	Directorate	Neighbourhoods and Adult Services

5. Summary

Through the creation of the Localism Act, 2011, and other legislation around social housing reform, the Coalition Government has introduced a number of options for social housing landlords to allocate and manage their housing stock.

It is a requirement of the Localism Act, 2011, that local authority landlords publish a Strategic Tenancy Policy, which sets out the authority's approach to the use of fixed term tenancies (sometimes referred to as flexible tenancies), by January 2013.

The consultation feedback on this issue clearly demonstrated a strong opposition to the widespread use of fixed term tenancies across the borough. It was felt that shorter-term, fixed term tenancies would make it difficult for people to settle and invest in an area and would undermine neighbourhood sustainability.

Feedback around the use of long term, fixed term tenancies for the 1.3% of Rotherham's housing stock of 4+ bedroom homes is less clear and it is on this issue that further guidance is sought.

6. Recommendations

- **Cabinet is asked to consider the issues in this report, the consultation feedback and observations by Improving Places Select Commission, and provide advice around the issuing of fixed term tenancies for Rotherham's larger, (4+ bed roomed) family homes**

7. Proposals and details

7.1 Background

As part of its package of Localism, Welfare Reform and austerity measures, the Coalition Government has introduced a raft of changes to the way in which affordable housing is provided in England. In the Localism Act, Government has set out measures which allow registered providers (including local authorities and registered social landlords), increased flexibility in the way they allocate and provide tenancies. At the heart of this are two key changes;

- I. The issuing of fixed term (flexible) tenancies for tenants of social housing landlords (as opposed to secure 'lifetime' tenancies for all)
- II. Local authorities will have increased flexibility on how they allocate social housing (this will be dealt with in a separate report)

7.2 Strategic Tenancy Policy

Legislation enacted through the Localism Act places a duty on all local authority landlords to produce a Strategic Tenancy Policy. The purpose of this policy is to set out the broad objectives to be taken into consideration by registered providers operating within their local authority area. Registered providers will 'have regard to' Rotherham's Strategic Tenancy Policy when formulating their own policies on how they will exercise the options which Government has afforded them through reforms to social housing policy and legislation. This Strategic Tenancy Policy should cover;

- How fixed term tenancies will be used
- The circumstances in which permanent secure tenancies will be granted
- Criteria for re-issuing tenancies at the end of a fixed term
- How a tenant may appeal or complain against the length of tenancy awarded

Strategic tenancy policies are to be published in January 2013 and reviewed every five years.

Once Rotherham's approach to long term fixed term tenancies for larger family homes is understood, its Strategic Tenancy Policy will be drafted and presented to Cabinet Member for Safe and Attractive Neighbourhoods, Cabinet and Registered Provider Partners, prior to publication.

- The Strategic Tenancy Policy will be published in January 2013 and implemented from April 2013 onwards
- The Strategic Tenancy Policy will be reviewed before 2018

7.3 Fixed term tenancies

The vast majority of social housing tenancies issued by social landlords are either assured tenancies issued by registered social landlords or secure tenancies issued by local authorities. As long as the tenancy conditions are met these two types of tenancy provide the security of a home for life to social housing tenants.

New social housing tenants are often issued with 'introductory' or 'probationary' tenancies. These tenancies are usually for a period of no more than 12 months and

become assured or secure tenancies on expiry (assuming there have been no difficulties during the period of the introductory or probationary tenancy).

Recent legislation enables social housing landlords to issue fixed term (also known as flexible) tenancies to new tenants. This type of tenancy offers a property for a specified period of time, from a minimum two year to a maximum 18 year period. At the end of the fixed term period landlords are able to review the tenancy and either;

- Issue a further fixed term tenancy
- Offer a secure/assured tenancy, or
- Manage the expiration of the fixed term tenancy

Government believes the introduction of fixed term tenancies will give local authority landlords another tool with which to manage their properties.

7.4 Would fixed term tenancies be appropriate in Rotherham?

The results from the consultation exercises regarding the whole scale use of fixed term tenancies was very clear in that fixed term tenancies, particularly the minimum 5 year fixed term tenancies, would be unwelcome in Rotherham, both for council properties and for stock in the borough owned by Rotherham's registered provider partners.

Supporting sustainable neighbourhoods is a key priority for Rotherham and there is a real concern that issuing council tenancies for a shorter fixed term period would potentially prevent tenants from committing to an area and therefore undermine sustainability. The council accepts that a level of transience within neighbourhoods is healthy but should not discourage households from settling into areas.

The results of the consultation on considering fixed term tenancies for larger family properties (Rotherham's 261 properties with 4+ bedrooms) was less clear, polarised opinions and the relatively low number of responses may not accurately reflect interested parties' views; this is clearly a contentious issue with both positive and negative implications for Rotherham.

Advantages of issuing fixed term tenancies for larger family homes	Disadvantages of issuing fixed term tenancies for larger family homes
Would assist large families to get the home they need and prevent overcrowding	Tenants may feel unable to settle
Reduce the opportunity for tenants to rent out spare rooms	A minimal increase in turn-over of larger family homes and associated voids costs
Reduce fuel poverty linked with under-occupancy	Increased transience due to time limited nature of fixed term tenancies
Make better use of Rotherham's comparatively low number of larger, family homes	Tenants having to move out of a home where they've raised their families and are emotionally attached to
Overcrowding and poor housing has been linked to poor educational attainment, poor physical and mental health, stress and even family breakdown	A small additional administrative burden to manage fixed term tenancies and re-house tenants when fixed term tenancy expires
Minimise tenants' benefits reduction due to bed room tax	

Tenants' situations change over time and households may not continue to need a Council house but choose to remain for a variety of reasons (low rent, satisfaction with the Council as a landlord, security, and other related benefits such as RTB). Fixed term tenancies can help to ensure people move to a suitably sized property when they no longer require a larger council house, freeing up housing to enable the Council to meet the needs of overcrowded families in priority need.

7.5 How might fixed term tenancies for larger family homes work?

It may be beneficial for Rotherham to consider issuing long term, fixed tenancies for 4+ bed room homes as a way of helping large families to get a tenancy for a large property, as;

- At October 2012 there were 342 families on the housing register with between 4 and 9 children in houses too small for their needs
- RMBC owns just 261 properties with 4, 5 and 6 bedrooms (1.3% of council stock)
- Of these 261 properties, 45% (117) of them house just one occupant.
- 3 couples have each moved from a 4 bedroom house to a smaller property with the support of Rotherham's Right-Size (downsizing) scheme

Consideration is sought as to whether very long term fixed tenancies for larger family homes, followed by the offer of a permanent secure tenancy in a smaller property, is a means of sympathetically managing occupation/overcrowding.

- 1) A tenancy offer for a 4 bed plus property would be for the maximum fixed term of 18 years (18 years is the maximum term for a fixed term tenancy, according to government guidance), but we would seek to support families with children up the age of 21.
- 2) 6-12 months before the fixed term tenancy is due to expire a review would take place, and;
 - a. if children have secured alternative accommodation, the fixed term tenancy would cease and tenants would be offered a smaller property suitable to their needs on secure basis
 - b. if there are still any children under the age of 21 living in the property the tenants could be given the choice of either signing a further, shorter fixed term tenancy (3 years) or be granted a permanent, secure tenancy on a property which meets the needs of their household size

The fixed term tenancy offer would be made explicit in the advertisement for the property so tenants would be aware of long, fixed term nature of the tenancy prior to bidding. It is envisaged that potential applicants will perceive this as a reasonable and fair approach as it is likely that they themselves will have waited for a considerable period to be offered a larger home.

Fixed term tenancies would not affect existing tenants. In reality, fixed term tenancies issued in 2013 are unlikely to expire until 2031 but at that time would offer better opportunities to manage council housing stock for the benefit of overcrowded families.

8. Finance

Should RMBC continue to issue permanent secure tenancies across all its housing stock there will be no direct financial implications for Rotherham. If RMBC opts to make use of fixed term tenancies for larger family homes there may be a slight

increase in void-related costs but this will be relatively minor as larger family homes make up only 1.3% of Rotherham's council housing.

9. Risks and uncertainties

Many registered providers own stock which spans multiple local authority areas. The practicalities of aligning their use of fixed term tenancies with the Strategic Tenancy Policies of several local authority landlords would lead to a lack of consistency for their tenants living in different local authority areas.

Legislation states that registered providers should '*have regard to*' the local authority's Strategic Tenancy Policy but this term is open to interpretation and it may be that registered providers do not mirror the local authority landlord's approach to fixed term tenancies.

The Localism Act seeks to devolve some elements of decision making from central government to local government. A consequence of such devolution is the perception that consequences of implementing/not implementing the options available at a local level would sit with the local authority.

The risk of an increase in Right to Buy following the implementation of fixed term tenancies is considered and thought to have a very minimal impact.

10. Policy and performance agenda implications

- Corporate Plan – Making sure no community is left behind
- NAS Service Plan, 2012
- Housing Excellence Plan
- Housing Strategy
 - Commitment 1, we will deliver Council housing that meets people's needs
 - Commitment 2, we will increase the supply of affordable rented housing in Rotherham
 - Commitment 7, we will help people in Rotherham's most disadvantaged communities

11. Background papers and consultation

Background papers

- Strategic Tenancy Policy, November 2012, Improving Places Select Commission
- Update position on allocations review and strategic tenancy policy, October 2012, Cabinet Member for Safe and Attractive Neighbourhoods
- [*Laying the Foundations: A Housing Strategy for England*](#). CLG, November 2011
- [*Localism Act, 2011*](#). CLG, November 2011

Appendices

- Appendix A, consultation programme and results of on-line and member questionnaires

Consultation

The consultation for both allocations and the issuing of fixed term tenancies was included with in the Housing Strategy consultation programme. This ran from June to September 2012 and specific workshops and questions around applying locally determined criteria to Rotherham's open housing register and the use of fixed term tenancies were held throughout that consultation. As well as face to face consultation events two questionnaires were issued;

- A questionnaire was available online throughout the consultation period and was completed by 51 residents
- A questionnaire was emailed to all elected members in October with a one week turn-around time; 7 completed questionnaires were received

A full consultation programme, with results of the on-line survey and member questionnaire, is contained in appendix A.

Once guidance is received Rotherham's draft Strategic Tenancy Strategy will be drafted and shared with registered provider partners prior to publication in January 2013.

This report was taken to Improving Places Select Commission on Wednesday, 28 November 2012. The meeting supported the proposals to implement the use of fixed term tenancies for Rotherham's larger family homes (4+ bedrooms) on the understanding that;

- this change would not affect existing tenants
- applicants would be made aware of the fixed term nature of the tenancy at the point of advert so they would know about the nature of the tenancy prior to bidding
- tenants would be offered a permanent secure tenancy when they downsize
- should the number of household members align with a larger family home at the end of the fixed term, another fixed term tenancy would be issued, and
- the rehousing of tenants when the fixed term tenancy expired would be handled sensitively and support offered

12. Contact details

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