

# **CHESHIRE WEST AND CHESTER COUNCIL**

## **TENANCY STRATEGY**

### **Background**

This tenancy strategy fulfils the requirements of the Localism Act (2011) for local authorities to have a tenancy strategy, setting out the matters to which social landlords in the area must have regard when setting their own policies. The strategy has been subject to consultation as required in the legislation. A summary of the consultation undertaken, comments and responses, is available upon request.

### **Context**

The Localism Act (2011) requires local authorities when preparing their strategies to take into account the priorities in their housing and homelessness strategies. This strategy also takes into account the Council's key corporate priorities. These include:

- Economic development: stable and affordable housing is an important factor in supporting people into and maintaining employment;
- Tackling regeneration in areas which need it and ensuring that all communities benefit from economic regeneration and growth;
- Maintaining independence for older people: there is an increasing proportion of older people in the borough, and housing is a key element in maintaining independence into later life.

Cheshire West and Chester is part of the Cheshire sub-region, which has agreed a sub-regional housing strategy with four priorities:

- Increasing the supply of affordable housing to support economic growth and development;
- Making best use of the existing housing stock;
- Meeting the housing and accommodation-related support needs of the most vulnerable residents;
- Increasing the supply of market housing to support continued economic growth and regeneration and meeting local housing needs.

The housing strategy is supported by a homelessness strategy which has the following priorities:

- Preventing homelessness and developing the housing solutions service;
- Delivery of the enhanced housing options programme;
- Addressing the current market conditions;
- Ending rough sleeping;
- Improving supported accommodation and move-one;
- Improving access to permanent accommodation.

Taken together, the Council's corporate plan, housing and homelessness strategies set the key overall aims for the tenancy strategy, as set out below.

### **Aims of the strategy**

- Supporting economic growth by ensuring that average incomes are not a barrier to accessing social housing, but that those on higher incomes who can afford to meet their own housing need are encouraged to do so;
- Encouraging a wide range of housing options to support households at different stages in their lives, and with different levels of income;
- Making best use of the available social housing stock, including reducing overcrowding, tackling under-occupation, and making best use of adapted housing for those with a disability;
- Ensuring that vulnerable households are able to access appropriate accommodation and where needed, ensure that accommodation is available for life;
- Maximising choice for applicants, within the available resources, and promoting mobility within social housing and between social housing and other housing tenures

It should be noted that, where used, flexible tenancies will only apply to new tenancies and will not affect existing tenants except for some very limited circumstances where tenants choose to move. The strategy aims to protect existing tenants above the protection offered by the legislation (see paragraph below on transfers and mutual exchanges for more information).

### **Affordability**

The Council recognises that developing associations will be charging affordable rents on new developments and on a proportion of relets. The Council asks all associations to consider the affordability of their rent levels for those on lower incomes in the borough. In particular, the Council asks associations to be cautious when converting from social to affordable rents in rural areas, where incomes are often lower and there may be few alternative options for people. Associations should also consider the affordability of higher rents for larger family accommodation, and accommodation in specific areas, such as those subject to regeneration. The strategy is accompanied by an affordability statement which is available upon request. The Council recognises that affordability will be impacted by a range of factors and will therefore annually review its affordability statement.

### **Making the most effective use of the housing stock**

The strategy set out below is flexible: it includes use of flexible tenancies where the landlord wishes to use them, and also recognises that some landlords will not wish to use flexible tenancies at this point in time. Where landlords are using flexible tenancies, the Council expects that the vast majority will be renewed upon review.

There should only be a small number of grounds on which a tenancy would not be renewed upon review.

The Council recognises that flexible tenancies could be a useful tool in making the most effective use of the housing stock. This would particularly apply to larger properties: let on a flexible tenancy to a family, the tenancy could be ended and appropriate alternative accommodation offered in the future if only one or two people are left living in the property. Similarly, flexible tenancies could be used on significantly adapted properties so that if the household circumstances change in future and the adaptations are no longer needed, the household can be moved to appropriate alternative accommodation and someone else can benefit from the adaptations. Finally, a flexible tenancy could be used to ensure that those living in social housing cannot meet their housing need through alternative routes by introducing a maximum income limit. It is not anticipated that many households will earn over the income limit but it is a useful tool for encouraging those no longer in need of social housing to consider other options.

However, it is also recognised that there are costs associated with the use of flexible tenancies, and some landlords do not believe that the benefits will outweigh the costs. There are other disadvantages which are harder to quantify, such as whether people will invest in their property and their community if they feel they may have to move on upon review.

An additional paper detailing more information on potential costs and benefits of flexible tenancies is available upon request.

It should be noted that most RPs already use introductory tenancies, which are offered for one year with a review at the end. There have not been significant additional costs arising from the use of introductory tenancies.

### **Type of tenancy to be granted**

The Council expects landlords to offer tenancies in line with the new tenancy standards i.e.

‘tenancies 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.’

The Council acknowledges that landlords will continue to offer a range of tenancy types for different circumstances. The Council supports landlords who wish to offer flexible tenancies where this will help to make best use of the stock. This includes approaches which offer flexible tenancies as the norm, with lifetime tenancies being granted only in certain circumstances, and approaches where lifetime tenancies are the norm, but flexible tenancies are offered on certain properties, or to certain households.

If landlords choose not to offer flexible tenancies, the Council will expect them to take all reasonable steps to make best use of the current stock, in particular:

- Having up to date and accurate information about tenants and their households to enable services and initiatives to be targeted appropriately;
- Tackling under-occupation through schemes offering both financial incentives and practical assistance with moving;
- Seeking to make best use of adapted accommodation when letting it, and by considering possession in appropriate cases where the household no longer requires those adaptations;
- Ensuring that households on higher incomes are strongly encouraged to consider appropriate alternatives to the current tenancy.

The Council accepts that landlords may feel that in certain circumstances stock is let on a flexible basis. This may include larger properties (three bedroom and above) to ensure that in future, if a household is under-occupying the property, they can be supported to move on and the property offered to a family needing that larger accommodation. It may also include properties which have been significantly adapted for use by someone with a disability, so that if in future the person who needs those adaptations is no longer living there, the remaining family can be moved to alternative accommodation and the property offered to someone who needs those adaptations. The Council will have regard to this tenancy strategy in developing its tenancy policy.

The Council expects landlords who offer introductory tenancies to continue to do so.

### **Minimum length of tenancy**

The legislation states that five years should normally be the minimum term for a flexible tenancy, and the Council can see no need to deviate from this. Landlords who are using flexible tenancies are discouraged from offering a longer tenancy term. A shorter tenancy period can be given in exceptional circumstances; the Council would expect any landlord considering offering a tenancy period of less than five years to consider this carefully in conjunction with the Council before making a final decision.

Where a landlord offers an introductory tenancy, it is anticipated that generally a flexible tenancy would be offered upon successful completion of the introductory tenancy, normally one year.

### **Who should be given which type of tenancy**

The Council supports those landlords who wish to use flexible tenancies, whether this is across much of their stock, or targeted to particular property or household types.

Where a landlord does not wish to offer flexible tenancies as the norm, the Council asks them to consider the pros and cons of offering a flexible tenancy on larger accommodation and on adapted accommodation.

There are, however, some vulnerable groups where there is a strong argument for a 'life-time' tenancy to be offered, as now. The Council generally expects households which include someone in the following groups to be offered a 'life-time' tenancy rather than a 'fixed term' tenancy:

- those with a severe learning disability (for example individuals assessed under the National Fairer Access to Care scheme as having critical or substantial needs);
- those with severe and enduring mental health problems (for example individuals assessed under the National Fairer Access to Care scheme as having critical or substantial needs);
- People aged 70 or over, or those aged over 65 living in specialist accommodation

Where tenants with a support need are offered a flexible tenancy, any relevant support staff should be involved in the decision as to which tenancy to award, and in any decision not to renew a flexible tenancy.

### **Transfers and mutual exchanges**

The Council is keen to promote mobility within social housing, and expects landlords to actively promote schemes to facilitate mutual exchange. Landlords will need to be aware of the provisions within the legislation for effecting mutual exchange between tenants with different tenancy types and to ensure that their policies reflect these requirements. The Council would expect landlords to grant mutual exchanges in cases where there is no legal obligation to do so, where the only ground for refusal would be that both tenancies have been granted since 15<sup>th</sup> January 2012. (Tenancies granted after 15<sup>th</sup> January 2012 do not have a legal right to a mutual exchange, any mutual exchanges granted after this date are at the discretion of the landlord.)

The Council is keen to encourage transfers within social housing stock, to ensure that tenants are in the most appropriate housing for them, and are able to relocate to facilitate employment. Many existing social housing tenants will have the right to the same tenancy type on transfer. Where this is not the case (either because they have chosen to move to a property offered on affordable rent terms, or where the tenancy came into being after this part of the legislation was enacted) the Council expects landlords, wherever possible, to offer a tenancy type as close as possible to the type of tenancy they previously held. This is particularly important where the transfer frees up a larger property or an adapted property.

## **Circumstances in which a tenancy might not be renewed**

Where landlords choose to use flexible tenancies, the Council expects that the vast majority will be renewed upon review.

There are two different circumstances in which a flexible tenancy would not be renewed. The first is where the property is no longer suitable, in which case the landlord would be expected to facilitate an offer of alternative accommodation. This could be by direct match or through the Trust Home Choice scheme. The second is where the household circumstances have changed and no offer of alternative accommodation is being made.

Circumstances in which the Council expects that the tenancy is not renewed but where an alternative offer will be made are:

- Where the household are under-occupying a property which is larger than they require; and
- Where the household are occupying an adapted property and no-one living there now requires the adaptations

Circumstances in which the Council expects the tenancy not to be renewed and no offer of alternative accommodation to be made are:

- The tenant's income (or in the case of joint tenants, the joint income) is now above the limits set out in the Allocations Policy which the Council considers is sufficient to enable the tenant to find accommodation in the private market
- The tenant or a member of the tenant's household has committed anti-social behaviour and the landlord has already initiated a legal process to repossess the accommodation
- The tenant owes rent to the landlord and the landlord has already initiated a legal process to repossess the accommodation

Where the landlord is ending the tenancy on the grounds that the tenant's income is now above the maximum amount, the landlord should take into account the length of time the tenant has been earning at this level, and any factors likely to cause a significant drop in income in the near future.

The Council expects landlords ending a tenancy on the grounds of rent arrears to consider the proportionality of this measure and to have robust internal procedures which give tenants reasonable opportunities to address the issue before an application to the court is made.

The landlord has to give the tenant at least six months' notice that they are not intending to renew the tenancy. Landlords should ensure that a copy of this notice is given to the local authority, at the time of service.

## **Appeals process**

The legislation requires landlords to offer tenants a right of appeal where it is not intending to renew a tenancy. Although the legislation on this point is not clear cut, it would be good practice to give a right of appeal to tenants who are being offered a flexible tenancy rather than any other sort of tenancy.

In order to provide independent challenge and consistency of decision-making, a panel will be established including representation at officer level from RPs and the Council. All Stage 3 complaints and appeals will be dealt with by this panel.

## **What happens if the landlord is not renewing the tenancy**

The legislation makes it clear that it is the landlord's responsibility to advise and support the tenant where they are not renewing the tenancy. Landlords and the Council have a shared interest here in ensuring that these households do not become homeless, but are supported to find alternative accommodation, if needed. The Council also encourages landlords to consider, where they are not renewing a tenancy because income levels have risen, allowing the tenant to remain in the property but on a different basis i.e. paying a market rent level, part-purchasing the property or outright purchase. It is for each landlord to decide whether they wish to offer these alternative arrangements but the Council encourages landlords to consider these options.

If a landlord is not renewing the tenancy but intends to make an offer of alternative accommodation, assessment of the suitability of that accommodation in terms of size and location should take into account the needs of the household, including the need to remain in an area to access support (formal or informal) or to be near to employment, place of worship etc.

The Council wishes to ensure that the advice and support given to tenants at the end of a flexible tenancy is of a good quality and solutions-focused. The Council is committed to working with partners on how best to ensure this.

## **Tenancy management, tenancy sustainment and tackling tenancy fraud**

The legislation requires Registered Providers to include statements in their tenancy policies setting out their approach to tenancy management, tenancy sustainment and tackling tenancy fraud.

The Council expects all social housing landlords to work proactively to manage and sustain tenancies. This should include regular contact with the tenant, regardless of tenancy type. For those on flexible tenancies this contact should be at least annually and should include a reminder of the tenancy end date and the grounds for not renewing the tenancy. The Council also expects Registered Providers to adhere to other protocols as agreed, for example the pre-eviction protocol.

Whilst the extent of tenancy fraud in the borough is not known, the Council expects landlords to take all reasonable precautions to tackle tenancy fraud, on registration, sign-up, and through subsequent regular contact.

### **Monitoring the impact of the policy**

Registered Providers are asked to work with the Council to monitor the impact of this strategy. The Council will work with Registered Providers to find ways of capturing information which do not unreasonably increase the workload of RPs, and to ensure that the information collected is restricted to what is needed.

### **Equalities analysis**

An equalities analysis has been carried out as part of developing this tenancy strategy.

Registered Providers are asked to work with the Council to monitor the impact of affordable rents and flexible tenancies on the different equalities groups. The Council will work with Registered Providers to find ways of capturing information which do not unreasonably increase the workload of RPs, and to ensure that the information collected is restricted to what is needed.

### **Implementing this strategy**

Implementation of this strategy will be underpinned by a communications and training strategy to ensure that the public, applicants, tenants, stakeholders and relevant staff are aware of the strategy and the impact on them. Relevant staff will not only include housing staff but others who provide care and/or support to individuals.

### **Reviewing this policy**

The Council, together with its partners, will undertake regular 'light touch' reviews of this strategy, initially in 2014, in the light of information about the impact it is having and any specific areas in which difficulties have arisen. A more fundamental review will be carried out in the longer term. The Council is committed to addressing adverse impacts or difficulties with partners in both a sympathetic and sensitive way.

### **Supporting Information**

This strategy is supported by a range of information in relation to the following;

1. Affordability statement;
2. Potential costs and benefits of flexible tenancies;
3. Statement on maximum income levels (will be the same income threshold as the Allocations Policy);
4. Consultation responses;
5. Equalities analysis;

These documents are available upon request by emailing the Housing Solutions team [Housingsolutions@cheshirewestandchester.gov.uk](mailto:Housingsolutions@cheshirewestandchester.gov.uk)

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