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# Tenancy Strategy

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## Glossary

Affordable Rent	Tenancies let by Registered Providers on rent levels of up to 80% of open market rents
Broad Rental Market Area	BRMA is an area, set by the Rent Officer, which comprises two or more distinct areas of residential accommodation adjoining at least one other area, within which a person could reasonably be expected to reside having regards to services and facilities. There are two BRMA in West Berkshire: Newbury/Thatcham and Reading.
Housing Needs Assessment	A high level assessment of the housing need across the district, looking at affordability of accommodation.
Local Housing Allowance	LHA is a national scheme that came into effect on the 7 <sup>th</sup> April 2008. It sets the maximum rent levels that can be paid by Housing Benefit for particular sized properties. The rent levels are set annually by the Rent Officer at the 30 <sup>th</sup> percentile of open market rents, according to the Broad Rental Market Area.
Localism Act 2011	Legislation that sets out the housing reforms, including Affordable Rents and fixed term tenancies
Mutual Exchange	A means of 'swapping' tenancies with another social tenant
Open Market Rents	Private rents which are set by the market.
Registered Providers	Housing providers who are registered with the Homes & Communities Agency
Social Rent	Tenancies let by Registered Providers on rent levels set at 'target' rents (usually 40-50% of open market rents) set by the Homes & Communities Agency. These are traditionally the cheapest rents in the market.
Tenancy Policy	The Policy adopted by Registered Providers explaining how they will use fixed term tenancies
Tenancy Strategy	The Strategy adopted by Local Authorities that explains their approach to the kinds of tenancies offered, the circumstances in which a landlord will grant a tenancy of a particular kind, their approach to the length of fixed term tenancies and the circumstances in which they expect landlords to grant a further tenancy upon the ending of an existing tenancy.

## **1. Introduction**

- 1.1 Under Section 150 of the Localism Act 2011, a duty is placed on all local housing authorities to develop a Tenancy Strategy to guide Registered Providers (RP's) in developing tenancy policies for their own stock. The Localism Act also requires RP's to have regard to the Tenancy Strategy. Further reforms introduced in this Act include the introduction of a new Affordable Rent tenancy which allows rents of up to 80% of market rent to be charged, and the ability to offer tenancies on a fixed term basis.
- 1.2 The previous Tenancy Strategy focussed on the major legislative change notably the introduction of fixed term tenancies. A review of RP use of tenancy types has highlighted a significant move away from offering fixed term tenancies towards the provision of lifetime tenancies that offer tenants greater security and stability.
- 1.3 As a non-stock holding local authority, West Berkshire Council works closely with Registered Providers and values the role they play in helping to meet housing need across the district. Ideally, West Berkshire Council would like to see a harmonised set of rent levels, tenancy terms and renewal policies across the district, that are easy to explain to housing applicants and which respond to locally identified needs. However, Registered Providers are independent organisations and the Council recognises that they work across local authority boundaries all of whom will have differing Tenancy Strategies. Consequently, this Tenancy Strategy sets out the broad principles that the Council expects its RP partners to have regard to, rather than a detailed set of policies.
- 1.4 This Tenancy Strategy has been developed in consultation with key stakeholders, including local RPs of affordable housing, taking into account the Council's Housing Strategy, Homelessness Strategy, Allocations Policy, Council Strategy and Sustainable Communities Strategy.

## **2. Vision**

- 2.1 The Council's corporate vision - 'Working together to make West Berkshire an even greater place in which to live, work, and learn' – is supported by the West Berkshire Vision 2036 that sets out its housing priorities as being:

“A West Berkshire with a housing mix with something for everyone”
- 2.2 The Housing Strategy (2020 – 2036) aims to build on our previous successes and provide strategic direction for both the Council and our partners to continue to support a thriving housing market across West Berkshire through the following twin priorities:

**Priority 1 Enable every resident to have access to a home that meets their needs**  
**Priority 2 Reduce homelessness**

### **3. Developing Tenancy Policies**

- 3.1 West Berkshire Council expects that RPs will engage and consult with the Council when developing their Tenancy Policies, to ensure that they are in line with the principles of West Berkshire's Tenancy Strategy. The Council would also expect that RPs engage and consult with residents and stakeholders.

### **4. Housing in West Berkshire**

- 4.1 West Berkshire Council does not own housing stock that is rented as social housing following the transfer of all Council-owned housing stock in 1989 to Sovereign Housing Association. The Council actively works with a number of Registered Providers who operate within West Berkshire to deliver a range of affordable homes to meet the needs of our residents, and there are over 9,000 affordable homes managed by registered providers in the District. Appendix 1 sets out the stock owned in the area by Registered Providers.
- 4.2 Affordability is a critical issue in West Berkshire across all segments of the housing market, with people struggling to secure affordable and sustainable housing, whether seeking home ownership or seeking to rent. In many areas the cost of home ownership relative to earnings is high, and in West Berkshire the £346,500 average cost of a home is almost ten times that of average earnings.
- 4.3 For residents who are on low incomes and/or are in receipt of welfare benefits the continued low level of Local Housing Allowance (LHA) reduces the availability of affordable accommodation. This is due to the resulting low value of Housing Benefit or (the housing costs element of) Universal Credit relative to market rent levels.
- 4.4 West Berkshire Council has consistently sought to promote and deliver rural housing schemes, particularly for the benefit of the local community and to support the rural economy. In rural communities, the supply of social housing is more limited, local wages are often low and market rents are typically higher. This means that people living in similar affordable housing to the more urban areas are paying a premium to live in the rural areas. Specialist housing developments that are restricted for occupation by local people, known as rural exception sites, often provide two and three-bedroom accommodation which has already been identified as being adversely affected by the affordable rent regime. As these are specialist developments, that are built to meet specific and identified needs, the Council's preference would be for them to continue to be delivered for social rent to ensure that they are affordable to the communities for whom they are intended.
- 4.5 As a result maximising the amount of affordable housing in the area is critical to supporting the Council's key housing priorities

### **5. Affordable Rent & Social Rent**

- 5.1 Affordable Rent and Social Rent are forms of low cost rented affordable housing. Affordable Rent was introduced by the Government in April 2011

- 5.2 Homes offered at an Affordable Rent must have been delivered through a contract with Homes England or converted to Affordable Rent as part of an agreed conversion programme to support delivery of homes from a Homes England affordable homes contract.
- 5.3 Allocations and nominations processes for Affordable Rent homes are expected to comply with the requirements of the Tenancy Standard; and Registered Providers will be under the same statutory and regulatory obligations as they are when allocating properties for Social Rent.
- 5.4 The maximum rental level for Affordable Rent should be no more than 80% of gross market rent (inclusive of service charges). In assessing whether the rent is no more than 80% the individual characteristics of the property must be taken in to account, such as its location and size.
- 5.5 Providers should set rents in accordance with the requirements of the Welfare Reform and Work Act 2016 and regulations made under it and the rent regulations as set out by the Social Housing Regulator, and should seek their own legal advice as to the applicability of the legislation where they consider it necessary to do so.
- 5.6 For both new supply and conversions providers will be required to assess what level the market rent would achieve and set the initial rent at up to 80% of that level (inclusive of service charges). The Regulator of Social Housing's Rent Standard guidance states that this should be based on a valuation in accordance with a method recognised by the Royal Institute of Chartered Surveyors (RICS) at the time the tenancy is granted.
- 5.7 From the 1 April 2020, Registered Providers may not increase Social Rents or Affordable Rents by more than CPI (at September of the previous year) plus 1% in any year for a period of five years. The council expects all Registered Providers to comply with the Policy Statement on Rents for Social Housing 2020 and the Rent Standard and any subsequent amendments in legislation, regulation or guidance.
- 5.7 Registered Providers will be required to rebase the rent on each occasion that a new Affordable Rent tenancy is issued (or renewed) for a particular property, ensuring that the rent remains at no more than 80% of the gross market rent (inclusive of service charges) as of the date the property is re-let. This should be the case even if it results in the new rent being lower than that previously charged.
- 5.8 Social Rent is low cost rental social housing that is made available at rent levels that are set in accordance with the Regulator of Social Housing's Rent Standard. Social rent levels should be calculated according to a formula based on relative property values and relative local earnings as set out in the Ministry of Housing, Communities and Local Government's Direction on the rent standard from 1<sup>st</sup> April 2020 (for local authorities and Registered Providers), and in the Regulator of Social Housing's Regulatory Framework for Social Housing (including the Rent Standard 2020) for private Registered Providers.
- 5.9 When developing their tenancy policies, we expect Registered Providers to have regard to the following:

- 5.9.1 We actively support the retention of social rent, to protect a valuable resource for which there is high demand and already limited supply. We expect that new developments will deliver affordable housing in accordance with the Core Strategy, and that the starting point for the tenure mix of each contribution will be 70% social rent and 30% intermediate tenures, to include affordable rent and shared ownership options.
- 5.9.2 Where alternative tenure mixes are sought, we expect to see viability information to demonstrate the need to depart from policy. We expect Registered Providers to take into consideration the need for mixed and sustainable communities. In particular, we expect that decisions to apply affordable rent will take into account information and evidence from the Council on its suitability in specific neighbourhoods.
- 5.9.3 Registered Providers should take a strategic approach to conversion, that:
- achieves an even distribution across social housing stock to ensure a mix of rent levels is available;
  - excludes high market, typically rural, areas that already have a limited supply of social rent;
  - excludes adapted, supported and temporary accommodation;
  - excludes social rented homes subject to a Section 106 Agreement.
- 5.9.4 We expect that affordable rent should not reinforce long-term benefit dependency or disadvantage households living in rural areas and should reflect incomes that households could reasonably be expected to sustain without a reliance on Universal Credit. We would expect that affordable rents will be set at no more than 80% of open market value.
- 5.9.5 We expect that new homes on specialist developments, for example, extra care, supported independent living and rural exception sites, will be developed for social (target) rent to ensure that they are affordable for the residents for which they are intended.
- 5.9.6 In order to ensure that homes remain sustainable for tenants, we expect that Registered Providers will be pro-active in setting and re-evaluating their affordable rents to ensure that they remain within LHA levels and for this reason, we would encourage Registered Providers to set their total rent charges (include service charges) at no higher than 95% of LHA and to take into account benefit caps as part of this process.

## **6. Tenancy Types**

- 6.1 Since the last Tenancy Strategy was produced, there has been a movement away from the provision of fixed term tenancies as the preferred choice for Registered Providers back to the provision of Lifetime Tenancies. All RPs who responded to the Council have confirmed that they either no longer offer a fixed term tenancy or they are currently revising their Allocations and Lettings policy which will end the use of Fixed Term tenancies.
- 6.2 The Regulator for Social Housing sets out in its Tenancy Standard that RPs shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings:
- make the best use of available housing

- are compatible with the purpose of the housing
  - contribute to local authorities' strategic housing function and sustainable communities
- 6.3 There should be clear application, decision-making and appeals processes. RPs are also expected to enable their tenants to gain access to opportunities to exchange their tenancy with that of another tenant, by way of internet-based mutual exchange services.
- 6.4 Registered providers must grant general needs tenants a periodic secure or assured (excluding periodic assured short hold) tenancy, or a tenancy for a minimum fixed term of five years, or exceptionally, a tenancy for a minimum fixed term of no less than two years, in addition to any probationary tenancy period
- 6.5 The decision on whether to offer probationary or starter tenancies is subject to the Lettings Policy of the specific RP.
- 6.6 West Berkshire Council actively promotes mutual exchange as a tool to make best use of existing stock and to assist tenants in resolving their housing needs. Any arrangements introduced for fixed term tenancies should not undermine the effectiveness of mutual exchanges and Registered Providers are encouraged to clearly set out, in their Tenancy Policy, the implications to a tenant's security of tenure if they mutually exchange and to adopt policies that promote the continued use of mutual exchanges for all tenants.
- 6.7 When developing tenancy policies we expect Registered Providers to have regard to the following:
- 6.7.1 We support the use of introductory tenancies. We do not support the use of fixed term tenancies for management purposes, for example under-occupation or minor tenancy breaches, which are best addressed via other means.
- 6.7.2 We support the move towards the provision of lifetime tenancies by RPs due to the impact this has on customers' ability to feel secure in their new tenancy and end the cycle of homelessness or insecurity.
- 6.7.3 We expect Registered Providers to offer lifetime tenancies to tenants of sheltered or extra care housing, rural exception sites, adapted homes and independent supported living accommodation.
- 6.7.4 We expect Registered Providers to offer a minimum term of 5 years where fixed term tenancies are still used. If a Registered Provider expects to offer a term of less than five years in exceptional circumstances, we expect that the provider's Tenancy Policy will clearly set out the circumstances in which this applies. We also expect Registered Providers to discuss the specific scheme or allocation with us before letting it on a term of less than five years.
- 6.7.5 We expect Registered Providers to work closely with the Council's Housing Operations team to ensure that prospective applicants are given high quality advice to ensure that they understand the terms on which the tenancy is being granted, the period for which it is being granted and the implications for their household at the end of the fixed term period.

- 6.7.6 We expect Registered Providers to clearly set out the exact circumstances for when a tenancy will and will not be renewed in their Tenancy Policy and to clearly communicate this with the tenant prior to them signing their tenancy agreement.
- 6.7.7 We expect Registered Providers to include their approach to mutual exchanges within their Tenancy Policy and to clearly set out the implications for tenants on their security of tenure. We encourage Registered Providers to develop policies that promote the continued use of mutual exchanges for all tenants.

## **7. Tenancy Sustainment**

- 7.1 It is important that Registered Providers ensure that tenants who are vulnerable or who need additional support to sustain their tenancy, can access appropriate services when required. Such assistance can help to enable tenants to remain in their community and their support networks, reducing the risk of homelessness through loss of tenancy.

## **8. Right of Succession**

- 8.1 Under the Housing Act 1985, a range of family members were able to succeed to a tenancy on the death of a Secure Tenant, including spouses, partners, civil partners, parents, grandparents, children, grandchildren, aunts, uncles, nephews, nieces and adopted children. The Localism Act 2011 introduced changes to the succession framework, whereby there can only be one succession, and when one joint tenant dies, this counts as the one succession. Under the Localism Act, Secure Tenancies that started after 1 April 2012 are limited to the succession of the spouse or civil partners as an automatic right.
- 8.2 Registered Providers will apply succession rights in accordance with the legislation and good practice.
- 8.3 Following the death of a tenant, if there is someone living in the home as their principal residence, who is not entitled to succeed, the Registered Provider should:
- provide housing advice and assistance to the person on their options.
  - consider the interests of vulnerable people and make sure that their policies offer appropriate protection.
  - where appropriate, offer alternative accommodation that meets the household's needs.
- 8.4 Where a person succeeds to a tenancy but needs to move, reference should be made to the council's Allocations Policy for more details on help available.

## **9 Tenant Involvement**

- 9.1 All Registered Providers are expected invest in and deliver meaningful, inclusive tenant involvement opportunities, which are promoted to their tenants. This should be used as an opportunity to continuously improve the quality of services, improve the quality of neighbourhoods and ensure they meet the needs of their tenants.



## **10 Appeals**

- 10.1 We expect Registered Providers to have a clear, transparent and accountable appeals process, that provides the tenant with enough information to make a decision on whether or not to appeal and which advises them on how to seek independent advice and representation.

# Document Control

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1.1	01/03/2021	Update to Roles and Responsibilities	NC
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## Related Documents

Reference	Title	Tier
	Housing Allocations Policy	
	Housing Strategy	