

RUSHMOOR'S UPDATED TENANCY STRATEGY

SUMMARY AND RECOMMENDATIONS:

The Localism Act 2011 places a statutory obligation on each Local Authority to publish a Tenancy Strategy to which Registered Providers (RP's) delivering affordable housing must refer to when producing their own Tenancy Policies.

The council published its first Tenancy Strategy in 2012. This updated strategy reflects the council's experience of delivering the 2012 strategy and the changed political drive in this area of housing policy since the 2018 Housing Green Paper was published.

The strategy is brought to Cabinet following consultation with the council's RP partners, neighbouring authorities and through the work of the Overview and Scrutiny Panel RP Review Programme.

It is recommended Cabinet approve the Tenancy Strategy.

1. INTRODUCTION

- 1.1. The report is presented to Cabinet for approval to enable the council to meet its statutory obligation under the Localism Act 2011 to have an up to date Tenancy Strategy in place. The updated Tenancy Strategy is attached to this report as Appendix A.

2. BACKGROUND

- 2.1. The council produced its first Tenancy Strategy in 2012 which sets out its tenancy objectives and expectations for RPs delivering and managing affordable homes in the borough.
- 2.2. The 2011 Localism Act introduced Fixed Term tenancies and the Affordable Rent model to the social housing sector. The expectation was that Fixed Term Tenancies would encourage movement within the social housing stock across the country, reducing under occupancy and overcrowding and that the Affordable Rent model would support the delivery of more affordable homes for rent.

- 2.3. Each RP Board agrees and publishes their own Tenancy Policy. The purpose of the Local Authority Tenancy Strategy is to provide guidance to RPs to support a consistent approach throughout the borough.
- 2.4. The initial Tenancy Strategy is now seven years old, since it was published national housing policy direction has changed. Until 2017 the political drive was towards compulsory Fixed Term Tenancies, since the publication of the 2018 Housing Green Paper, this is no longer the case. The updated Tenancy Strategy reflects the national policy shift.
- 2.5. The Tenancy Strategy is (as required by the 2011 Localism Act) supported by the following strategies and policies:
 - The Housing Regulator Tenancy Standard
 - Rushmoor's Housing and Homelessness Strategy
 - Rushmoor's Housing Allocation Policy

3. DETAILS OF THE PROPOSAL

General

- 3.1. The new Tenancy Strategy has been produced to reflect the change in policy emphasis, and to maintain the council's consistent approach with RPs.
- 3.2. The new strategy has been informed by data from the following sources:
 - Local Lettings Plans
 - CORE lettings information
 - Rushmoor Housing Allocation Pool
 - Scheme profiles completed by RPs on new developments
- 3.3. Rushmoor data shows that in most cases Fixed Term Tenancies are renewed rather than ended, this finding is reflected nationally. Fixed Term Tenancies are not therefore delivering the level of movement in the housing stock envisaged by national policy makers.
- 3.4. Rushmoor data also shows, since the initial Tenancy Strategy was published, that most households in the Rushmoor Housing Allocation Pool would struggle to pay an Affordable Rent if they are not in receipt of benefits. In these circumstances Affordable Rents can contribute to financial hardship particularly for low-income working households.

In 2018 Homes England made additional capital funding available to Rushmoor's RPs to deliver Social Rent at typically 50% of the open market rent in recognition that 80% of market rent is not affordable for most households in need. Rushmoor's Affordable Housing Supplementary Planning Document now specifies Affordable Rents are set Local Housing Allowance levels rather than 80% of market rent, with a rent cap for four-bedroom homes set at £250 per week. These rents are reflected in the new

Tenancy Strategy; the council is successfully securing rents at these levels through S106 agreements.

Consultation

- 3.5. The 2019 Tenancy Strategy has been produced in consultation with RP partners through regular RP meetings and the work of the Overview and Scrutiny Committee Panel RP Review Programme. A draft has been published on the council website for residents' comments.

4. IMPLICATIONS

Risks

- 4.1. There are no risks immediately associated with the publication of the Tenancy Strategy.

Legal Implications

- 4.2. It is a legal requirement for the council to have an up to date Tenancy Strategy in place.

Financial and Resource Implications

- 4.3. There are no financial or resource implications to the council in adopting the Tenancy Strategy.

Equalities Impact Implications

- 4.4. The Tenancy Strategy provides tenancy protection to vulnerable tenants which may include groups of people with protected characteristics.

Other

- 4.5. N.A

5. CONCLUSIONS

- 5.1. The revised Tenancy Strategy has been produced to enable the council to meet its statutory duty and to incorporate a new national policy direction in terms of the use of Fixed Term Tenancies.
- 5.2. The revised Tenancy Strategy allows the council to offer consistent guidance in respect of partner RPs Tenancy Policies.

BACKGROUND DOCUMENTS:

- Rushmoor Housing and Homelessness Strategy
- Rushmoor Housing Allocation Policy
- Rushmoor Affordable Housing Supplementary Housing Document (SPD)

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Rushmoor Tenancy Strategy 2019

Overview:

The tenancy strategy enables the council to meet its obligations set out in the 2011 Localism Act by way of providing guidance to Registered Providers delivering affordable housing in the borough.

The strategy sets out the preferred use of different tenancy types and rent models which aim to support the needs of households in the Housing Allocation Pool as well as new housing development.

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1. Aim of the strategy

Rushmoor is a non-stock holding authority having transferred its stock in 1995; the aim of this strategy is to support sustainable and affordable communities and a consistent approach to the use of fixed term tenancies for our Registered Provider (RP) partners.

2. National policy context & background

Rushmoor adopted its first tenancy strategy in 2012. This revised strategy reflects our experience of fixed and lifetime tenancies and the introduction of the affordable rent model as well as the business needs of our RP partners, the Tenancy Standard and the approach of the 2018 Social Housing Green Paper.

The 2011 Localism Act introduced fixed term tenancies as a tenancy option to support movement within the social housing stock, the expectation was that it would reduce under-occupancy and overcrowding. The Act also placed a statutory requirement on all Local Authorities to publish a tenancy strategy, the purpose of which is to set out matters that stock owning RPs in the borough, must have regard of, specifically:

- The type of tenancies they issue; fixed term or lifetime
- The circumstances in which they will issue particular types of tenancy
- The length of fixed term tenancies
- The circumstances, in which, fixed term tenancies are renewed.

The Housing Regulator's Tenancy Standard does not specify the length of tenancies, their requirement is that, *"RPs shall offer tenancies of terms of occupation 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"*.

Until 2017 the political drive was toward compulsory fixed term tenancies, however the August 2018 Social Housing Green Paper

relaxed this standpoint; the use of fixed term tenancies remains discretionary.

In Rushmoor there are currently 20 RPs managing 6,586 affordable homes in the borough. Each RP has its own Tenancy Policy, which reflects the requirements of Rushmoor's 2012 Tenancy Strategy. Different RP Boards have taken individual decisions on the use of fixed term tenancies; all offer a range of tenancies to meet their customer's different circumstances.

3. Consultation

The 2019 tenancy strategy has been produced in consultation with local stakeholders and partner organisations; through regular RP meetings and the work of Rushmoor Borough Council's Overview and Scrutiny Panel RP Review Programme and with residents via the Rushmoor Borough Council website.

4. Supporting documents

This tenancy strategy has been prepared, having due regard for the following supporting documents, as required by the Localism Act:

- The Housing Regulator Tenancy Standard
- Rushmoor's Housing and Homelessness Strategy
- Rushmoor's Housing Allocation Policy

5. Monitoring and data sources

The 2012 tenancy strategy has been monitored using data from the following sources:

- Local lettings plans
- CORE letting information
- Rushmoor Housing Allocation Pool
- Scheme profiles compiled by each RP for new developments

This information, as well as feedback from our RP providers informs the new strategy.

6. Tenancy objectives for Rushmoor

The council's overarching aim is to create successful and sustainable communities where people want to live. In order to achieve this Rushmoor's tenancy strategy covers the following:

1. Meeting the housing needs and aspirations of our residents at the start of their first tenancy and as they change over time
2. Ensuring each household is provided with an appropriate level of security for their needs
3. The protection of vulnerable residents
4. Making best use of the limited housing stock available to us
5. Working collaboratively with RPs
6. Encouraging the development of affordable homes

The council supports tenancies which provide tenants with:

- Clear information about their tenancy type, the processes around review and renewal of their tenancy and their right to appeal
- A minimum term of 6 years (5 years with an additional year as a starter tenancy)
- Presumption always in favour of renewal of tenancies to provide stability for people and communities
- Protection for vulnerable people with lifetime tenancies
- The development of working protocols with the council's Housing Options team especially where tenancies are being ended

7. How providers currently deliver Rushmoor's tenancy strategy

All RPs operating in Rushmoor have a tenancy policy. On newbuild homes most RPs offer a 12 month starter tenancy followed by a fixed term of at least 5 years. Re-let homes are typically let as assured (lifetime) tenancies following a 12 month starter tenancy.

We have found that fixed term tenancies are only being ended in very exceptional circumstances, resulting in a negligible

amount of homes being released to those households in the Housing Allocation Pool.

8. Lifetime tenancies

Whilst RPs will develop their own tenancy policies, they must have regard to the council's view that, to protect vulnerable people, the following tenants will be offered lifetime tenancies:

- Tenants of sheltered housing
- People over state retirement age, in general needs housing, occupying property appropriate to their needs
- Tenants of supported housing and people with a long-term medical or welfare need for secure accommodation, whose circumstances are not expected to change
- Tenants who already hold a lifetime tenancy who downsize to a development specifically built to be allocated to under-occupiers, or who downsize under the council's under occupation scheme
- Ex-service personnel who have been medically discharged as a consequence of operational deployment
- Bereaved spouses or civil partners of members of the armed forces leaving Service Family Accommodation following the death of their spouse or partner on operational deployment. (Partners living outside SFA should be considered on a case by case basis)

9. Fixed term tenancies

Where fixed term tenancies are used the council expects that:

- It is clear from the point at which a property is advertised that the landlord offers fixed term tenancies
- There is clear information available to prospective tenants on the nature and consequences of the tenancy type
- Tenancies will be no shorter than five years in length with an additional year as a starter tenancy. However, we would prefer to see fixed term tenancies of 10 years' duration

- If an RP is considering shorter tenancies, it must demonstrate that there are exceptional circumstances that justify that approach

The council also expects that:

- In the case of families with children in full time education, RPs will consider the impact that non-renewal of a tenancy may have on the family including the impact on children's education. Families with children are to be considered to be appropriately occupying their home until the youngest child residing in the home reaches 18 years or 21 years if in full time education or in an apprenticeship. The Housing and Planning Act 2016 allows a 10 year fixed term for households with children aged nine or under to support this
- Where fixed term tenants in adapted properties have families with disabled members, the presumption is that their tenancy will be renewed with further fixed term tenancies until the adaptations are no longer required
- Tenants who are granted a fixed term tenancy must be made fully aware of the criteria against which their housing situation will be considered when the RP makes the decision whether to renew their tenancy, and how they can appeal against a decision not to renew. RPs tenancy policies should state clearly how appeals are undertaken

The Council will only sanction the non-renewal of a fixed term tenancy to deal with anti-social behaviour or problems with the conduct of the tenancy if:

- The RP has a policy of using introductory tenancies
- The RP can provide evidence that tenancy management remedies have been used to address these issues during the tenancy, (the RP's evidence must meet the standard required to enable a judge in possession proceedings to grant possession to the RP)
- The non-renewal of a tenancy is a proportionate and reasonable response to the ASB or tenancy breaches

10. Renewal of fixed term tenancies

The council expects tenancies to be renewed in most cases. The purpose of granting fixed term tenancies is to make best use of stock to meet housing need, but this must be balanced against the need to provide stability for people and communities, therefore, the council would encourage RPs not to renew flexible tenancies where:

- The property is under-occupied. (Under lettings plans some under-occupation may be necessary, for example to allow families to grow into a property to foster a more stable community or to encourage people to downsize)
- The tenant has sufficient financial resources to meet their housing needs in the private housing market. (The council's Allocations Scheme states that capital/assets of more than £60,000 or an income of £60,000 is sufficient to secure housing in the private sector in the borough)

Even if the criteria for non-renewal are met there are circumstances where, to protect vulnerable people, renewal must be considered:

- The tenant or a member of their household has a disability or a terminal illness
- The tenant is a foster carer and needs the property to continue in this role
- The tenant is a care leaver and still needs the support of social services
- The tenant is in a Family Intervention Project
- The tenant or members of their household no longer require an adapted property
- There is no other suitable accommodation and ending the tenancy would result in the tenant becoming homeless

Where a tenant on a fixed term tenancy is significantly overcrowded resulting in poor housing conditions detrimental to health and wellbeing, the council expects RPs to work with the tenant and the council's Housing Options Team to agree with them a move to more suitable accommodation (which may be in the private sector). The council would not expect, other than in exceptional

circumstances, that a tenancy would not be renewed on grounds of overcrowding.

The council requires RPs to produce tenancy policies that set out how these circumstances will be handled.

11. Review of fixed term tenancies - process

The council expects RPs to have robust procedures for dealing with the review and renewal of tenancies with a process that includes the following:

- Not less than 12 months from the end of the tenancy the RP will review the tenancy and will, no less than six months from the end of the tenancy, advise the tenant whether their tenancy will be renewed. If the intention is not to renew the tenancy the tenant will be provided with reasons and will be provided with comprehensive advice and assistance to secure alternative accommodation
- The RP must have in place an appeals process, and the tenant should be advised of their right to appeal and the timescales within which the appeal must be made
- The RP should provide the council with details of those tenancies that are not being renewed and the tenants should be advised about the council's housing options service
- It is expected that RPs operating in the borough will seek to develop protocols in partnership with the council for assisting tenants whose tenancies are not renewed to make sure that they receive advice and assistance in securing alternative housing
- The RP should have arrangements in place for making sure that the required two months (s21) notice is served on or before the date on which the fixed term expired stating that the RP requires possession of the property
- The RP should have arrangements in place to make sure that fixed term tenancies do not become periodic tenancies

12. Advice and assistance

RP's must inform the council's Housing Options Team whenever a tenancy is not to be renewed.

Where an RP has indicated that they will not renew a tenancy, the council requires the RP to put in place a full housing options advice package to help the tenant make the transition to alternative housing.

13. Affordable rent: new lets

The Localism Act saw the introduction of affordable rent, giving RPs the freedom to charge rents at up to 80% of the local market rents. Affordable rent can be set for lifetime and fixed term for new build and a proportion of re-let homes.

The council's research on income and affordability for households in the Housing Allocation Pool demonstrates that this is not an affordable model for most households. The council has therefore set affordable rent thresholds at the Local Housing Allowance with a cap of £250 per week for four bed homes, currently:

Number of bedrooms	Weekly affordable rent (April 2019)
Shared room rate	£79.92
1	£141.24
2	£176.56
3	£210.70
4	£250

14. Social rent

The delivery of social rent, calculated as formula rent, is encouraged. Our research findings demonstrate that this rent model is particularly important for working households who do not qualify for housing related benefits. Capital grant support is available from Rushmoor and Homes England to support social rent.

15. Affordable rent: re-lets

Whilst many RPs have converted a proportion of social rent to affordable rent at re-let stage, the council's preference is to preserve social rent wherever possible. Preserving social rent, particularly for larger homes, is important to ensure affordability to larger households and for community and social stability, especially for working households who do not qualify for housing benefit. The conversion of social rent to affordable rent is not the preferred option of the council but if it occurs the council would expect it to support the development of additional affordable homes for rent within the borough.

Social rent tenancies can be let on fixed term tenancies of at least six years (five years' fixed term, plus one year starter tenancy).

16. Advanced rent payments

In order to keep new lets as affordable as possible and to enable people to move quickly, the council would prefer as far as possible, rent in advance is set at one week, rather than two or more. Rushmoor will inform customers about rent in advance before they start bidding and will inform and work with RPs when customers have exceptional circumstances where affordability affects their ability to pay rent in advance.

17. Rightsizing

Accommodating tenants into homes that are the right size for their household is key to maximising the capacity of the borough's

housing stock and therefore a strategic housing priority for Rushmoor.

RPs play a key role in identifying and supporting tenants to be able to do this. Tenancy moves within RP stock should offer equivalent tenancy protection (lifetime to lifetime or fixed term to fixed term).

18. Equalities

A full equality impact assessment was carried out in 2012 and this has been reviewed and updated considering this revised strategy. RPs should conduct their own equality impact assessments when producing and updating their tenancy policies.

