

APPENDIX A

Black Country Tenancy Strategy

Dudley MBC

Sandwell MBC

Walsall MBC

Wolverhampton City Council

Effective from: 1st April 2021

Black Country Tenancy Strategy

Overview

This Black Country Tenancy Strategy has been developed in response to the Localism Act 2011. Section 150 (1) to (8) sets out the issues and administration procedures to be followed by local authorities with regard to their Tenancy Strategy. Section 150 (1) of the Act states that a local housing authority in England must prepare and publish a strategy (a “tenancy strategy”) setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to—

- the kinds of tenancies that they grant;
- the circumstances in which they will grant a tenancy of a particular kind;
- where they grant tenancies for a certain term, the lengths of the terms; and,
- the circumstances in which they will grant a further tenancy at the end of an existing tenancy.

Section 150 (3) also states that local authorities must have regard to their tenancy strategy when delivering their housing management function.

The Localism Act introduced provision for a new flexible secure tenancy for registered providers of social housing referred to as a Fixed Term Tenancy (FTT). As the term suggests, these tenancies can be issued for fixed terms and, based on a set of fixed circumstances, can either be renewed (by way of ending the original tenancy and granting a new one) or terminated at the close of the term. The legislation also brings in the use of ‘Affordable Rents’ for social housing tenants that are set at up to 80% of the local private rented market level (in accordance with guidance set out in the relevant Affordable Homes Programme).

The purpose of this strategy is to indicate how these new freedoms will be used in a strategic way to make the best use of affordable housing¹ stock across the Black Country local authority areas consisting of Dudley, Sandwell, Walsall and Wolverhampton. All Registered Providers operating across the Black Country area will be expected to give regard to the objectives and principles set out in this strategy.

The overarching strategic objective of this strategy is to create a consistent and fair approach to the use of Fixed Term Tenancies and Affordable Rents across the Black Country Region in order to:

- help local households to meet their current and future housing needs
- encourage Registered Providers to invest in the Black Country to provide more affordable housing options
- create sustainable communities and continue to protect the vulnerable

We welcome the use of these powers, alongside the use of existing powers, where they can contribute to:

¹ See Glossary of Terms

- Making the best use of social housing stock
- Addressing issues such as under occupation or overcrowding
- Assisting tenants to improve their employability prospects and improve the economic circumstances of their household (by supporting access to training, employment, mentoring etc) which will widen the range of housing options that are available to them
- Encouraging and maintaining thriving sustainable communities

Use of tenancies and their duration

Housing providers should, where possible, offer the most secure form of tenure that is compatible with the purpose of the accommodation, the needs of the household and helps to build sustainable communities.

Local authorities and Registered Providers have the powers to use a wide range of tenancy types. Registered Providers have a range of tenancy options, including, for example, Secure, Assured, Assured Shorthold, Starter, Non-Secure and Demoted tenancies that have been used to good effect over the years. These should still be used as appropriate and Fixed Term Tenancies should not necessarily be the default tenancy type.

Each Black Country authority that has its own housing stock has developed its approach to using fixed term tenancies and as such there are no plans to introduce the wide scale use of fixed term tenancies. However, each authority continues to retain the right to use such tenancies where circumstances dictate that this may be the most effective way to utilise their housing stock.

Administration of Fixed Term Tenancies

The use of fixed term tenancies must be considered very carefully in order to ensure that communities are sustainable and the most vulnerable tenants or prospective tenants are provided with an appropriate type and length of tenancy to provide them with the protection and stability that they require to live successfully within their local community.

In order to achieve that, we require that:

- In accordance with government advice, any fixed term tenancy is offered for a minimum of five years plus any introductory/probationary or starter period. Tenancies of any shorter duration should only be issued in exceptional circumstances.
- A longer minimum fixed term be considered for those vulnerable tenants that may benefit from an additional period of stability, for example occupants of some supported housing schemes or households containing children of school age.

- Tenants in sheltered housing or Extra Care Housing will not be considered for fixed term tenancies.
- All prospective tenants be advised of the consequences of entering into a fixed term tenancy arrangement prior to the signing of the tenancy agreement.

Registered Providers will be expected to have procedures in place that will provide clear information to prospective tenants covering:

- the type of tenancy to be issued
- the reasons for issuing such a tenancy
- the grounds upon which a tenant may appeal the prospective landlord's decision
- the circumstances where a fixed term tenancy will be issued, the length of the term and the criteria used for review

Fixed term tenancy - review and termination

We expect that fixed term tenancies will be reviewed **at least nine months** prior to the tenancy end date.

The review process must give due regard to the need to create sustainable communities containing a range of households with mixed income levels. We have therefore not set any household income criteria within the tenancy review process. Each household should be assessed and advised on the range of housing options that are available to them and advice and assistance should be offered to higher income households so that they can consider staircasing into home ownership products if this is affordable and an expressed desire of the household.

We expect that there will be a **presumption that a new fixed term tenancy will be issued, upon review** unless the size or needs of the household are such that the property is unsuitable to continue to be occupied. Typically, though not exhaustive, the situations not to issue a further fixed term tenancy would include:

- The property is adapted and no-one residing at the property requires the adaptations
- The property is under-occupied
- The property is over-crowded
- The financial circumstances of the tenant have changed to such an extent that other housing options would be more appropriate.
- Breaches of tenancy or tenancy fraud are identified and legal proceedings have been commenced.
- The tenant and/or their advocate do not engage in the Fixed Term Tenancy review process.
- The tenant comes into legal ownership of another home or property.
- The tenant's behaviour during the fixed term of the tenancy has been unacceptable to the extent that they would not be accepted onto the council's housing register – for example sustained and documented anti-social behaviour.

In the circumstances where a tenancy may be terminated and no breach of tenancy has occurred, reasonable efforts must be made to offer suitable alternative accommodation.

The review should NOT be used as an alternative to using the legal remedies and proceedings that are available for the management of tenancies if there is sufficient time and evidence to commence the appropriate legal proceedings.

Existing tenants

We expect that in the main, all existing tenants who may wish to transfer to another social rented home will retain their existing level of security of tenure, even if the transfer is from one social landlord to another.

Review and appeal

Prior to the tenancy commencing, all tenants must be given information about the landlord's review process and the appeals process.

Summary

In summary, the Black Country Councils will expect Registered Providers to offer tenants before they issue a Fixed Term Tenancy, during the tenancy, and prior to the end of the tenancy the following:

Prior to tenancy:

- Timely information and advice services are available to help people understand their housing options which should include, where appropriate, opportunities to move within and outside the social and affordable rent sectors e.g., into market rent or home ownership (including low cost).
- Clear criteria against which the decision to offer a further tenancy, at point of review, will be made.

During the tenancy

- Tenancy support, for example help with financial planning and money management advice.
- Referral to external support agencies where required.
- Periodic reviews to monitor any change in circumstances.

Prior to end of the Fixed Term period

- A clear and transparent review process which is understood by the tenant at the time of tenancy sign up.
- Information sharing between Registered Providers and the council when the decision not to issue a new tenancy has been taken. This must ideally be provided six months before the tenancy ends, to help to prevent homelessness.

- To make tenants aware that advice agencies may be able to support tenants in the tenancy review process.

Administration of Affordable Rents

Affordable rents

We acknowledge that the use of Affordable Rents is essential to the delivery of new social housing, especially the homes delivered under the Homes England Affordable Housing Programme arrangements. However, householders within the Black Country generally have low incomes and we expect landlords to take this into account and take a responsible view when determining when and how Affordable Rents (new build and conversions) will be used. Additionally, we expect, where possible, a proportion of new build development to be for social rent where they are not funded through the Affordable Housing Grant programme.

We expect landlords to offer prospective tenants the opportunity to discuss and evaluate if a tenancy at an Affordable Rent level is a sustainable housing option for them. Where affordability is an issue, we expect the landlord to provide support to the tenant to enable them where possible to access and sustain the tenancy rather than exclude them in the first instance.

Affordable rent conversions

The relevant local authority must be involved at an early stage in discussions about stock conversions and provided with details regarding the property type, location and proposed rent level prior to conversions being implemented. The participating local authorities want to ensure that all conversions are suitable and appropriate for their local areas.

Any decisions on implementation must give careful consideration to the sustainability of local communities. Fundamentally, we expect all housing providers to ensure that any Affordable Rents are genuinely affordable for local tenants. The number of conversions in each locality must be carefully managed to ensure that local housing estates continue to contain households with a mix of incomes and that the local community is sustainable.

Consideration should also be given in special circumstances to de-converting Affordable Rents in tenancies where tenants are struggling to meet rent levels on affordability grounds. Converting from social rent to affordable rent is not supported unless there is a direct link to the funding of additional affordable or social homes within the region.

Monitoring and Review

The Black Country authorities will review this strategy as and when required.

Further Information

This document should be read in conjunction with the relevant allocations, homelessness and other relevant policies.

A copy of this policy, or other related policies, is available for inspection, without charge to members of the public. Copies can be made available upon request. This information can be obtained from:

Dudley MBC

www.dudley.gov.uk

Dudley Council Plus 0300 555 2345

Sandwell MBC

www.sandwell.gov.uk

Housing Management – 0121 569 5190

Walsall MBC

http://cms.walsall.gov.uk/index/housing/housing_strategies_and_policies.htm

01922 655413 or HousingServices@walsall.gov.uk

Wolverhampton CC

www.wolverhampton.gov.uk/housing/strategy_performance/default.htm

01902 551155 or Housing.Strategy@wolverhampton.gov.uk

Glossary of Terms

Affordable Housing is defined in Annex 2 of the National Planning Policy Framework guidance – February 2019 MHCLG