



## **SOUTH GLOUCESTERSHIRE COUNCIL AND HOUSING PARTNERSHIP**

### **STRATEGIC TENANCY POLICY**

The Localism Act 2011 contains the requirement that a local housing authority must prepare and publish a strategy (a tenancy strategy) setting out the matters to which the registered providers of social housing in its district are to have regard in formulating policies relating to

- (a) the kinds of tenancies they grant
- (b) the circumstances in which they will grant a tenancy of a particular kind
- (c) where they grant tenancies for a certain term, the lengths of the terms, and
- (d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

The tenancy strategy must summarise those policies or explain where they may be found.

An Affordable Rent Tenancy (ART) is one where the rent is set at 80% of market at time of let. A fixed term tenancy is one which is offered for a specified period of time, usually five years.

South Gloucestershire Council acknowledges that landlords awarded investment contracts have already gone some way to developing their own policies around identifying properties to be let at Affordable Rent or flexible (fixed term) tenancies.

(Note – there is no presumption that flexible tenancies will be let as ART or that rent set at ART will denote a flexible tenancy.)

In most instances, the Council is confident that its partners have had best regard to ensuring neighbourhood cohesion and sustainable communities in formulating their policies regardless of holding an investment contract or otherwise.

To support this, this Council and its partners have developed the following principles to serve as a guide for the letting of the social housing in this area. These principles form the Strategic Tenancy Policy.

## **1) Selection of properties to be let at Affordable Rent**

There are two routes through which properties can be identified for letting at ART

- all new properties delivered with grant
- the selection of existing properties available for re-let that have been identified for conversion.

There is no discretion not to let new properties delivered with grant as ART and any applicant bidding for such a property does so at their own choice.

Where a property is to be converted, this should be based on the type of property and not on the applicant's circumstances. Property selection should take into account any overriding restrictions that do not permit any conversion, e.g. specific planning restrictions.

Where an individual landlord's lettings policy denotes that a prospective tenant for a designated re-let ART property should be offered a tenancy at social rent only, then it is for their organisation to identify a suitable property to substitute where the capital stream is to be maintained.

## **2) Method of advertising**

Landlords in South Gloucestershire Council are committed to using Choice Based Lettings (CBL) to advertise ART and fixed term tenancy properties.

## **3) Type of Tenancies to be awarded for fixed term tenancies.**

Affordable housing no longer has to be let on a tenancy for life. Landlords can opt to let a property on a fixed term tenancy (also known as flexible tenancy) or on a lifetime basis.

### Fixed term

There are a range of options available for landlords in issuing fixed term tenancies in addition to periodic (lifetime) tenancies as currently issued.

- short (2 year minimum) fixed term tenancies (exceptional)
- medium (5 year) fixed term tenancies – usual minimum
- long (7+ year) fixed term tenancies

Fixed term tenancies will involve additional costs: some can be anticipated, for example the resources involved in reviewing and renewing tenancies. Others are

harder to anticipate, in particular potential Human Rights Act challenges. Fixed term tenancies also give rise to concerns about sustainability and communities.

Fixed term tenancies enable landlords to deal with changes of circumstances – particularly income and family size.

In the majority of cases, the minimum term of an fixed term tenancy is 5 years. However, RP's are able to offer shorter tenancies, down to a minimum of 2 years, where there are exceptional reasons for doing so. RP's who offer tenancies lasting for fewer than 5 years must outline their case for doing this in their published tenancy policy(s).<sup>1</sup>

### Lifetime tenancies

Lifetime tenancies (periodic tenancies) have the converse benefits and risks: less costly, less prone to challenge, greater opportunities for community development, but less able to respond to changed circumstances. It is worth bearing in mind that a 'lifetime' tenancy doesn't often mean that, and many tenants, particularly when their circumstances change, choose to move anyway.

There is no obligation on landlords to offer a fixed term tenancy, however where a landlord chooses to, the type of tenancy granted must comply with the tenancy standard set by the Tenant Services Authority.

Landlords may wish to offer different time frames for fixed term tenancies subject to the asset.

Landlords may also wish to take account of issuing the same fixed term on newly delivered schemes to avoid multiple reviews, renewals and voids at the same time when the tenancy term comes to an end.

## **4) Selection of properties to be awarded as fixed term tenancies**

It is for landlords to implement their own policies around the selection of properties to be let as fixed term tenancies. The South Gloucestershire Housing Group (SGHG) supports the view in principle that the selection of properties should be based on the likely future need for that property by the household taking up occupancy.

The Localism Act will give the Secretary of State the power to give directions to the regulator on tenure.

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<sup>1</sup> See 'AR - Tenancy Arrangements CFG Homes and Communities Agency (HCA)' 6 May 2011

The SGHG wishes to see that the use of fixed term tenancies promotes community sustainability. South Gloucestershire Council does not want to see that the use of fixed term tenancies has had a detrimental impact. Should it become apparent that the use of fixed term tenancies has contributed to an increase in stock turn-over and/or a concentration of fixed term tenancies in particular localities and that this has had a detrimental effect on community stability, then the Council would wish for landlords to respond cohesively and co-ordinate lettings policies to address this.

#### **5) Minimum length of tenancy – generally 5 years**

Where landlords opt to offer fixed term tenancies, the expected minimum period is five years (with some discretion for a minimum period of two years). Landlords can offer longer fixed term periods if they wish, and should refer to the TSA tenancy standard for guidance around this.

South Gloucestershire Council wish to see the use of fixed term tenancies where this supports other strategic priorities.

#### **6) Existing Tenants**

In some circumstances, a tenant could be required to move by their landlord or where it is strategically beneficial (for example where they are under-occupying or to vacate an adapted property where it is no longer needed).

Where this happens, South Gloucestershire Council and the SGHG wish to see the tenant transfer on the same terms as their current tenancy (with the exception of ART properties where there is no discretion to offer on a social rent). This avoids a potential barrier to the tenant's agreement to move.

Landlords are expected to grant those who were social housing tenants on the day on which s132 of the Localism Act came into force a tenancy with no less security where they choose to move to a social rented home. Where a tenant is choosing to bid for a property let on Affordable Rent terms via the choice based letting system then they accept that they will be transferring [moving] under different rights. Where a tenant is concerned about the implications of this, they should discuss this with their housing officer and/or take independent advice.

#### **7) Set of criteria for assessing the renewal of tenancies**

The landlord should review a fixed term tenancy six months before it is due to end to consider whether it should be renewed. The landlord should be clear about its own assessment criteria in considering if the tenancy should be renewed.

Acceptable reasons to end a time-limited tenancy could include the following:

- Under-occupation;
- A financial assessment identifies that the tenant is able to meet their own housing needs without subsidy;
- Where the tenancy has been poorly conducted, e.g. there are persistent arrears or some instances of anti-social behaviour;
- Adapted property where the tenant no longer needs the adaptation;
- The tenant has acquired another property.

There are some circumstances where it is preferable that a lifetime tenancy would be automatic, e.g.:

- Designated older persons accommodation such as sheltered or ExtraCare;
- Scheme based supported housing.

Landlords should have an appeals process at the end of the fixed term tenancy if the tenancy is terminated and the tenant disagrees with this decision.

## **8) The assessment of market rent for setting of ART**

Landlords are required to obtain an open market assessment valuation from a RICS accredited assessor. Landlords should refer to the latest RICS guidance for further information.

## **9) The assessment of affordability for individual households**

The issue of affordability was considered in detail in the development of the STP and a discussion paper prepared outlining the different definitions of affordability and the elements to be considered in assessing affordability for individual households.

The West of England Strategic Housing Market Assessment 2009 had adopted a definition of affordability at 25% of gross income (which equates to 30% of net income).

Homes let as ART at 80% of market rents to households on low incomes or on means tested benefits are unlikely to be affordable under this definition.

In order to take a pragmatic approach, the project team to develop the STP agreed to recommend that a standard of suitability be adopted instead. This is as follows:-

- where the chargeable rent for any ART property is fully eligible for Housing Benefit, the property is deemed to be suitable for the household to occupy.

The Council encourages housing associations to let ART properties at lower percentages (in accordance with the Coalition Government's policy that ART is 'up to 80% of market rents) where there is a need to improve affordability for individual households and to reduce the potential burden on the benefits bill.

While this may mean that a household (particularly larger households occupying larger properties or social housing in high value areas) may be using more than 25% of their gross income to meet housing costs, where the rent is eligible for HB then there is no reason for a household to be left with less than their applicable amount after their housing costs are met.

## **10) Succession**

There is no change for existing tenants. There are some changes for new tenants. The following provides a quick interpretation of these changes.

The Localism Act introduces discretion to change succession rights for new tenants subject to conditions, including the inclusion of a reserve successor.

A reserve successor can be considered (being a person who is not a priority successor of the contract holder and who is either a carer or who meets the family member condition) if at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home. Further succession must be permissible as a tenancy term.

The right to further succession may not be to remain in the particular property, and the reserve successor could be offered a move to a more suitable home.

## **11) Best practice for housing advice**

Where a fixed term tenancy is granted, the landlord must review the tenancy six months before it expires. If it is felt by the landlord that the tenant no longer needs that accommodation or the property they are in is no longer suitable (e.g. their income has improved significantly or the property is too big for their needs) then they may be asked to leave. They will be given advice by their landlord to help them find suitable alternative housing. This could include applying for a transfer if they still have a need for affordable housing or looking at a private rented sector property or shared ownership.

The SGHP wishes to establish standards of housing advice for those who need to move in order that any household affected by end of term receives good information about housing options available to them to prevent homelessness.

This will be developed by the West of England Housing and Support sub-group.

## **12) Adapted Properties**

The framework relating to Disabled Facilities Grant installations is governed by legislation regardless of tenancy term. This means that an assessed need for aids and adaptations funded through disabled facilities grant is not a barrier to bidding for a fixed term property. It also means that being a tenant of a fixed term tenancy is not in itself a barrier to the approval of a DFG.

In some instances removable equipment can be recycled where the tenant no longer has a need for it. Landlords are reminded to inform the Council where a property becomes empty and contains equipment that could be reused, or where the adaptations are specific and could be appropriate for a particular household in need of them under a landlords nominations quota.

## **13) The Council's Lettings/Housing Allocations Policy and its balance between new applicants and existing tenants.**

The Localism Act raises the issue of the relative balance of priority between new housing applicants (including homeless households) and existing tenants who wish to move.

Historically local housing authorities would have two systems for assessing the relative priority of new applicants and existing tenants. Over time this has been simplified into one system that is designed to assess housing need and give priority to applicants accordingly.

At this stage the Council is not proposing to move away/back to a policy that includes separate methods of prioritising these two groups. This will mean that all applicants will continue to be assessed and prioritised based on their housing need and how long they have been waiting. We are not at this stage proposing to introduce any factors to give any different priority based on whether or not the applicant is an existing tenant of an affordable home provided by a housing association.

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