



# Kirklees Strategic Tenancy Policy



# 1. Background and overview

## Introduction

1.1 Under the Localism Act 2011, all local authorities have a duty to produce a tenancy strategy, setting out the objectives to be taken into consideration by individual registered housing providers as they make decisions about their own tenancy policies. These strategies must explain the local authority's responses to the changes to affordable housing tenures introduced in the Act.

1.2 This strategy is Kirklees Council's response to that duty. It sets out how we would like registered providers with affordable housing stock in the district to respond to the relevant changes introduced by the Localism Act. The changes that this strategy covers are:

- The use of fixed term tenancies
- The potential to make changes to the Housing Register and allocations criteria for affordable housing
- Changes to the way we use the private rented sector to house homeless people.

1.3 It is important to note that registered providers need only 'have regard to' our tenancy strategy in developing their own tenancy policies. In addition, they have already signed their contracts with the Homes and Communities Agency over the development of the new affordable rent product for the delivery of affordable housing until 2015, which means they will already have plans in place. However, we ask that registered providers in Kirklees to review their own tenancy policies after the publication of this strategy to ensure that, wherever possible, their policies work to complement and do not contradict our strategy.

1.4 This strategy sits below the Kirklees Housing Commissioning Strategy and works to ensure that

the changes in the Localism Act do not hinder our progress in meeting the priorities set out within it. It works in conjunction with the council's Homelessness Strategy to prevent homelessness in the district. It also has links to the new Allocations Policy, which defines the process for allocating affordable housing in the district.

1.5 This strategy fulfils our duty to publish a strategy that set outs the matters that registered providers of affordable housing in the district must have regard to when they develop policies relating to:

- The kinds of tenancies they should grant
- The circumstances in which they will grant a tenancy of a particular kind
- Where they grant tenancies for set terms, the length that those terms will be
- The circumstances in which they will grant a further tenancy on the ending of the existing tenancy.

1.6 This strategy goes further and outlines our position on:

- The application of the affordable rent tenure
- Discharging the homelessness duty into the private rented sector



- 1.7 We set up a Project Steering Group, consisting of representatives from a range of council departments and external partners, to develop our response to the Localism Act and this strategy. This has ensured that we have gained a range of views from different perspectives to ensure that we could develop a strategy that would best meet the needs of our residents.

## Consultation

- 1.8 The principles of this strategy have been developed in consultation with the public, Kirklees Federation of Tenants and Residents Association (KFTRA), Elected Members, The Social Housing Reforms Steering Group, Registered Provider Partners, Kirklees Neighbourhood Housing and other council colleagues.

## Evidence

- 1.9 The evidence base containing data that informed this policy is in the council's Cabinet report of 19 December 2012 and can be found at:

<https://www.kirklees.gov.uk/secure/meetings/pdfs/1212/CABINET19121247151D.pdf>



## 2. The Policy

- 2.1 The council has considered the results of the consultation and the data within this document to consider the new powers and determine if they are appropriate for Kirklees Council and its residents.

### Flexible Tenancies (a secure tenancy that is granted for a specific term)

- 2.2 Flexible tenancies are not used by Kirklees Council and the council retains its current lifetime tenancies, following a successful introductory tenancy.
- 2.3 The reasons for this approach are:
- Flexible tenancies will have significant financial and resource implications, which would be difficult to meet in the current climate.
  - Concerns have been expressed over possible legal challenge.
  - Risks to community cohesion and stability.
  - The Council already has mechanisms in place to deal with the best use of adapted properties, and enabling people to move from under occupied properties.

### Use of the private rented sector to discharge the Council's duty to homeless households, where suitable property is available and meets required safeguards

- 2.4 In certain circumstances where a suitable private rented sector property is identified for the applicant, and where all safeguards are met, this offer is made and the council's homelessness duty discharged. This change is intended to respond to the shortage in social housing while also reducing the substantial costs that can arise from accommodating households in temporary accommodation.

### Succession of a council tenancy

- 2.5 The one statutory right of succession to a secure tenancy is limited to a spouse or partner. If a joint tenant dies the tenancy will pass to the other joint tenant and this will count as the succession.

### Monitoring of the strategy

- 2.6 The strategy will be a live document that will develop over time, informed by the partnership working with RP's and others. The housing market, housing need and demand for properties are likely to change further as a result of welfare reforms and changes to the economy.



- 2.7 The Strategy will be monitored annually through Kirklees Housing Integrated Commissioning Group to reflect changes in local housing priority, legislation and strategic goals. Monitoring will need to consider two main areas:
- The effectiveness and extent to which the new measures are implemented. This will include measuring the number of fixed term tenancies issued in Kirklees, the number of affordable rent properties, changes to allocations processes and homelessness placements in the private sector.
  - It will also need to consider changing market conditions and their likely impact on the demand for service provision. It will therefore also monitor:
    - Housing need
    - Homelessness approaches, preventions and acceptances
    - Number of new homes built and in which tenure(s)
    - Rent levels across all tenures
    - Changing trends in welfare benefits, particularly housing benefit
    - Affordability.
- 2.8 Monitoring these activities will inform future changes to the strategy and enable our service response to remain appropriate and relevant to changing circumstances.

### Registered Providers & other partners

- 2.9 In order to maximise opportunities to secure affordable housing delivery, the council will continue to develop and secure partnerships with Registered Providers, private developers and third sector partners to secure development opportunities in Kirklees. This would be through a combination of developing partnership arrangements and securing delivery through Section 106 Agreements, development, grant or loan agreements.
- 2.10 The council will work with any partner who can provide affordable housing to meet the needs of Kirklees residents. The affordable homes may consist of different “affordable” models and

tenures including “affordable rent” (up to 80% of market rent), affordable to purchase properties and assured shorthold tenancies.

- 2.11 This will involve a pro-active approach to develop affordable housing on land or property not controlled by the council, and subject to cabinet or other regulatory approval, it could also include the development of council owned land where this can contribute to reducing the overall development costs and secure more investment in affordable homes. The affordable homes may consist of different “affordable” models and tenures including “affordable rent” (up to 80% of market rent), affordable to purchase properties and assured shorthold tenancies.
- 2.12 Section 2.2 of this document sets out the council’s proposed approach to flexible tenancies. This section focuses on Registered Providers (normally housing associations). They are required to have “due regard” to the council’s proposed approach and consider how they intend to take it into account in the operation of their own tenancy regime.
- 2.13 The council needs to work closely with Registered Providers to:
- Help the council develop its overall approach
  - Take account of the final policies set out in the adopted document, and,
  - Assist the council in delivering the new approach.
- 2.14 In regard to a flexible approach to tenancies, Registered Providers have had the freedoms and flexibilities for many years that the council has not had access to. For example, Registered Providers have been able to issue Assured Shorthold Tenancies (ASTs) since the 1988 Housing Act which have been particularly useful for their intermediate housing sub-market rented products.
- 2.15 Registered Providers own and manage approximately 5,000 homes in Kirklees. They are therefore an important partner with the council in meeting its affordable housing objectives. They have a strong record of delivering a wide range of products ranging from delivering supported housing for vulnerable groups; social housing at target rents; affordable low cost home ownership and sub-market intermediate rents. In the near future, the council expects Registered Providers



to be delivering a new kind of affordable housing – Affordable rent - which will be let at rents at up to 80% of market levels. This will include up to 50% of Registered Provider' re-let homes, e.g., existing homes that become empty and available to let for new households. In effect, the rents charged would convert from 'target' social rents to "affordable rents".

2.16 The council expects Registered Providers tenancy policies to reflect the objectives set out in this Strategic Tenancy Policy. Many Registered Providers operate in a number of boroughs and may be under some pressure to adopt different approaches, to reflect differing issues; the council believes that Registered Provider can adopt a flexible approach which accommodates the local priorities set out in this Tenancy Strategy.

### **Registered Providers and Assured shorthold tenancies**

2.17 If a registered provider wishes to use or offer assured shorthold tenancies within Kirklees the provider should give "due regard" to the council and inform them of the number, location, tenancy type and length of such tenancies. Where fixed term tenancies are used the council expects that such tenancies should normally be offered for a minimum period of five years, including any probationary period.

2.18 Assured shorthold tenancies expiring will not usually be renewed where:

- The household is under-occupying the property (an alternative tenancy may be offered) subject to alternative accommodation being available.
- The household's circumstances enable them to access market housing AND there is no reason to seek to retain the household in the locality for purposes of community balance.
- A member of the household, or their invited guests, is engaged in anti-social activities within the locality of the home and/or that has a detrimental effect upon the community in which the household is placed. Anti-social behaviour is conduct causing or likely to cause nuisance or annoyance, harassment, alarm or distress, to any other person and can include criminal acts.

- Property was adapted during the tenancy period for someone with a disability and that person is no longer resident there.
- Where a person has been granted a property in order to receive support but then refuses to accept that support.
- Where there is evidence a breach of tenancy agreement has occurred for example property neglect or rent arrears.
- Where it is identified the property is inappropriate for an individual's needs, i.e. they are not coping in the property or they need more support than is currently being provided.

2.19 Assured shorthold tenancies expiring **will** usually be renewed where:

- The household includes children of school age attending a local school. However, we may need to recognise that children stay with their parents well beyond school age for valid reasons, and these will be considered on an individual basis.
- The household includes a disabled person with adaptations to the home.
- The household receives some form of housing related support
- Where the household still requires the size of property.
- The household continues to require access to market housing.
- Where the household is playing an active role in the community.
- Households where the applicant or household member is terminally ill.

2.20 Kirklees Council is committed to ensuring that the decision to terminate a assured shorthold tenancy does not lead to increases in levels of homelessness in Kirklees. Therefore, in situations where a decision has been taken by a housing provider not to renew a tenancy at the end of a fixed-term, the provider should seek to engage with the tenant at the earliest possible opportunity to make them aware of the provider's intentions.



2.21 Housing providers should provide households affected by the termination of a tenancy with any relevant advice and assistance that will assist them in successfully relocating to alternative accommodation. This advice and assistance could include:

- Advice on low-cost home ownership options and other alternative affordable housing tenures.
- Specialist housing and/or welfare related advice and/or signposting to appropriate advice services.
- Advice on renting in the private sector and assistance in identifying and securing a suitable property (this may involve assistance with a deposit where necessary).

**If you wish to discuss this strategy and/or the council's approach please contact**

**Housing.services@kirklees.gov.uk**

To see a summary of registered providers and where their policies can be found please go to

**<http://www.kirklees.gov.uk/community/housing/housingAssociations.aspx>**

