

REPORT TO: Health Policy & Performance Board

DATE: 6 March 2012

REPORTING OFFICER: Strategic Director, Communities

PORTFOLIO: Neighbourhood, Leisure and Sport
Health and Adults

SUBJECT: Draft Tenancy Strategy

WARD(S) Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to present Halton's Tenancy Strategy as a draft document for further consultation and to seek Members' views on the content of the Strategy.

2.0 **RECOMMENDATION: That Members of the Policy and Performance Board note and comment on the attached draft Tenancy Strategy.**

3.0 SUPPORTING INFORMATION

3.1 Background

3.1.1 The Coalition Government's White Paper of November 2010 "*Local decisions: a fairer future for social housing*" introduced the concept of fixed term tenancies for social housing providers rather than the "Lifetime Tenancies" currently offered. Registered Providers (RPs - previously known as Registered Social Landlords) are able to offer fixed term tenancies from April 2012.

3.1.2 Under the terms of the Localism Act local authorities must develop a Tenancy Strategy setting out recommendations for the type of tenancies that should be offered in the local area, the length of those tenancies (if fixed term tenancies are proposed) and the circumstances in which they should be offered and renewed. In developing their own tenancy policies RPs are to have due regard to the local authority's Tenancy Strategy, however, they do not have to adhere to the recommendations of the local authority Strategy.

3.1.3 The timescale for local authorities to develop their tenancy strategies is proposed to be within 12 months following enactment of the Localism Act (November 2011). Consequently, RPs are able to start offering the new tenancies some seven months before the local authority must develop an approach recommending whether and, if so, how they are used. For this reason, officers have started to develop a Tenancy Strategy, on the understanding that it may need to be revised as a result of any guidance published following enactment of the Act.

3.2 Progress to date

- 3.2.1 Officers met with RPs in September 2011 to discuss their respective positions with regard to the use of fixed term tenancies. It was clear that RPs are at different stages in terms of developing their own approaches, some more advanced than others, and in some respects were looking to the Council for a steer. Equally the Council was looking to RPs to give an indication of the circumstances in which they considered they may want to use fixed term tenancies so that it could evaluate whether or not there were sound reasons for doing so and incorporating these in a strategy.
- 3.2.2 The Council's starting position was that it was willing to be flexible but would need to evidence why there should be a departure from the status quo if a tenancy strategy advocating limited use of fixed term tenancies is to gain support. However, as RPs are not obliged to adhere to the local authority's strategy there is a risk that should an RP decide to use fixed term tenancies, the Council would have no influence over how and when they are used or renewed if they are not included as an option in the Tenancy Strategy. The development of a Strategy which gives a limited level of support for fixed term tenancies would allow the local authority to set parameters guiding their use in order to protect vulnerable people and maintain sustainability in Halton's communities.
- 3.2.3 After much discussion, including the role of Affordable Rents and the proposed Welfare Reforms in the equation, it was agreed that RPs would provide examples, together with copies of early drafts of any Board reports on affordable rent and tenancy policies. The Council would then endeavour to pull together common themes with a view to developing a permissive rather than a prescribing strategy e.g. describing circumstances where it may be appropriate to use flexible tenancies.
- 3.2.4 Officers received responses from two RPs which outlined the principles on which they wish to develop their approach. A consistent theme was the need to maintain stable, cohesive and balanced communities but also highlighted was the need for a flexible approach that can be tailored to the diverse needs of customers and protect vulnerable groups, ensuring that the use of fixed term tenancies does not act as a disincentive for people to improve their lives and maintaining continuity in children's education.

3.3 Halton draft Tenancy Strategy

- 3.3.1 A Strategy has been drafted which permits RPs to make use of the new fixed term tenancies should they wish to do so whilst at the same time making it clear that the Council's preference is to maintain the status quo. The Strategy, which is attached as Appendix A to this report, sets the parameters for their use.
- 3.3.2 The minimum term for fixed term tenancies is proposed to be five years (in line with current Government thinking) but RPs can extend this period if they wish.

3.3.3 The draft Strategy recommends that fixed term tenancies are not suitable for:

- Existing social housing tenants who became assured tenants prior to 1st April 2012 and who are transferring to another property;
- Where the property is part of a supported housing development that provides specialist accommodation for particular client groups, including sheltered housing.
- Where the tenant is someone over the prevailing state retirement age.
- Where the property is located in an area of very low demand and/or high multiple deprivation where the local authority has serious concerns about the long term sustainability of the area. In these circumstances, the local authority will initiate discussions with the relevant Provider(s) to request that they temporarily suspend the use of fixed term tenancies in that area.
- Where a tenant with a secure or assured tenancy is required by a Provider to move due to redevelopment e.g. they are being required to move, not seeking to do so.

3.3.4 The Council expects that in most cases fixed term tenancies will be renewed upon review, particularly where:

- 1) the tenancy was originally offered in response to a particular set of circumstances or vulnerabilities (e.g. the household was fleeing harassment or domestic violence or is under a witness protection programme or was a person leaving local authority care, or has mental health problems) and the household is assessed as still being vulnerable.
- 2) the household contains dependants of pre school age or in full time education, unless 2) below applies.
- 3) the property has been adapted to meet the needs of a disabled person and that person still resides in the property and needs the adaptations.

3.3.5 Circumstances where the tenancy may not be renewed include where:

- 1) There has been a change in the composition of the household which has resulted in the household under occupying the accommodation.
- 2) There has been a substantial improvement in the household's financial circumstances to the extent that continued occupation of the property by the household would present a conflict with the charitable objectives or primary purpose of Providers to provide housing for those in necessitous circumstances.
- 3) An adapted property is no longer suitable for the tenant's needs e.g. where adaptations have been provided for a disabled person who is no longer resident in the property, the adaptations are no longer required, and there are other families needing this type of adapted accommodation.

- 3.3.6 Tenancy strategies are not intended to be a means of enforcing tenancy agreements and, therefore, the Strategy states that it does not expect RPs to use fixed terms tenancies as an enforcement tool, for example, refusing to renew a tenancy on the grounds of rent arrears or anti social behaviour. Existing legal remedies and possession proceedings, as appropriate, should be pursued to tackle these issues. However, the Strategy recognises that there may be circumstances where possession proceedings are so far advanced that it may not be appropriate for RPs to renew a tenancy. It will be for RPs to judge these cases on merit mindful that they will have to justify such action should the tenant seek to exercise their right to appeal.
- 3.3.6 In all circumstances (except due to significant improvement in financial circumstances) it is recommended that the RP arrange for more suitable accommodation to be offered to the household within its own or another RP's stock.
- 3.3.7 The draft Strategy will need to be the subject of further consultation with existing social housing tenants and prospective tenants who are on the Council's and other RPs' waiting lists. It is expected that the consultation period will be from 26th March to 23rd April 2012 and that the Strategy will be signed off at Executive Board in June.

4.0 POLICY IMPLICATIONS

- 4.1 The Tenancy Strategy is intended to provide guidance for RPs in the development of their tenancy policies. It has been developed to comply with Government proposals contained in the Localism Act, however, may need to be revised at a future point should further guidance be issued following enactment of the Act.

5.0 OTHER/FINANCIAL IMPLICATIONS

- 5.1 There may be financial implications arising from the need to consult with existing and potential future tenants of social housing.
- 5.2 The implications of the use of fixed term tenancies are clearly outlined in the draft Strategy. However, the Strategy has been framed so that it minimises the impact on HBC services and on Halton's communities.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children & Young People in Halton

The Strategy recommends that fixed term tenancies are renewed where the household contains pre school age children or children in full time education, unless there has been a substantial increase in the financial circumstances of the household to the extent that continued occupation of the property would present a conflict with the RPs charitable objectives to provide housing for those in necessitous circumstances.

- 6.2 **Employment, Learning & Skills in Halton**
The Strategy has been framed so that there are no barriers to those seeking employment or career development as a result of the use of fixed term tenancies.
- 6.3 **A Healthy Halton**
The Strategy recommends that fixed term tenancies are renewed for vulnerable people, whose health and well being could be adversely affected by having to move as a result of the termination of a fixed term tenancy.
- 6.4 **A Safer Halton**
The Strategy aims to minimise the risks to sustainable communities and thus community safety which could potentially result from the use of fixed term tenancies.
- 6.5 **Halton's Urban Renewal**
The Strategy aims to protect the sustainability of Halton's communities from the use of fixed term tenancies by reserving the right of the Council to request that the RP suspend their use should an area be identified as potentially being at risk.
- 7.0 **RISK ANALYSIS**
- 7.1 The risks of using fixed term tenancies are clearly outlined in the draft Strategy. However, the Strategy has been framed so that it minimises the risks to HBC services and to the sustainability of Halton's communities.
- 8.0 **EQUALITY AND DIVERSITY ISSUES**
- 8.1 An Equality Impact Assessment has been undertaken on the Strategy. No negative impacts were found on any of the protected characteristics.
- 9.0 **REASON(S) FOR DECISION**
- 9.1 Local authorities have a statutory duty to develop a Tenancy Strategy within 12 months of enactment of the Localism Act 2011.
- 9.2 The decision to develop a Strategy which permits the use of fixed term tenancies should RPs wish to use them was taken as it allows the Council to exercise some influence over their use.
- 10.0 **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**
- 10.1 The development of a Strategy which does not include fixed term tenancies was considered. However, Registered Providers are only required to have due regard to the local authority's Strategy when setting their own tenancy policies and are not compelled to follow the Council's recommendations. Consequently, a Strategy which did not include fixed term tenancies would mean that the authority would have no influence over their use should providers decide to introduce them for their stock. This option was, therefore, rejected.

11.0 **IMPLEMENTATION DATE**

11.1 The Strategy would take effect from the date it is approved by the Council's Executive Board.

12.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
Draft Tenancy Strategy	Runcorn Town Hall, second floor	Joanne Sutton
Localism Act 2011	Municipal Building, second floor	Eleanor Carter