



How to...

develop your tenancy policy



How to... develop your tenancy policy

1 What is a tenancy policy?

The concept of tenancy policies was introduced initially as part of a wider package of social housing reforms implemented through the Localism Act and through changes to the regulatory standards that all social landlords are expected to meet, with effect from April 2012. The reforms included the introduction of fixed term tenancies, reduced statutory rights to succession for local authority tenants, changes to allocations and homelessness and the promotion of increased choices around mobility.

A tenancy policy, which the regulator's revised tenancy standard requires all housing providers to publish, is intended to set out how you will use the range of options that tenancy reform has made available to you (specific requirements are set out on page 2). In addition there is an expectation that it also clarifies how you will support tenancy sustainment and prevent unnecessary eviction, tackle tenancy fraud and grant discretionary succession rights. Overall your policy should help to provide clarity to tenants, ensure consistency and transparency of approach and also protect you from legal challenge.

Although the regulatory requirement to develop a tenancy policy took effect from April 2012, in practice individual providers have been setting their own deadlines by which to achieve compliance with the revised standard. This means that while some housing providers have already been letting homes on fixed terms for many months, others are still finalising their policies now.

This How to... does not aim to be prescriptive, but provides a broad framework to help you understand what issues and considerations you need to take into account when developing a tenancy policy. You will need to work with local authority partners, applicants, tenants and other relevant partners to develop a tenancy policy that reflects local needs, the make-up of your own stock and the strategic expectations of the local authorities you work with.

What is the relationship between tenancy policies and tenancy strategies?

The Localism Act created a statutory requirement for all local authorities to develop a tenancy strategy. These must set out *'the matters to which the registered providers of social housing for its district are to have regard in formulating policies 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 term certain, 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 Act also sets out clear expectations that local authorities must produce their tenancy strategy in consultation with registered providers. Therefore, the relationship between your tenancy policy and the local authority's tenancy strategy should be collaborative and joined up.

In practice, varying deadlines for the publication of tenancy strategies (local authorities are statutorily required to publish these by January 2013) and the development of tenancy policies (which some housing providers began developing from April 2012), have sometimes created a challenge to this joined up approach.

However, we would strongly recommend that registered providers discuss their tenancy policies with their partner local authorities from the outset.

What are the legal and regulatory expectations?

The requirement that social landlords publish a tenancy policy is regulatory rather than legal. It is set out in the revised tenancy standard, which took effect from April 2012 and contains the following required outcome:

'Registered providers shall issue tenancies or 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.'

In addition, it also sets the following specific expectation:

'Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions and tackling tenancy fraud, and set out:

- 1) the kinds of tenancies they will grant*
- 2) where they grant tenancies for a fixed term, the length of those terms*
- 3) the circumstances in which they will grant tenancies of a particular type*
- 4) any exceptional circumstances in which they will grant tenancies for a term of less than five years in general needs housing following any probationary period*
- 5) the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property*
- 6) the way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term*
- 7) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability*
- 8) the advice and assistance they will give to tenants on finding alternative accommodation they will give in the event that they decide not to grant another tenancy*
- 9) their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.'*

These represent the minimum requirements for your tenancy policy.

How to develop your tenancy policy

Developing your tenancy policy is essentially a three stage process, comprised of strategic decisions; operational decisions; and consultation and communication.

Strategic decisions

Before you can consider the specifics of your tenancy policy, it is necessary to be clear about what you are hoping to achieve at a strategic level. The key questions that need to be considered at this stage are:

- what are the broad aims and objectives your tenancy policy needs to support you to achieve?
- what are the specific outcomes you are hoping to see as a result of your approach?

There are many possible approaches but, for example, you may decide that the overall goal which your policy will help you to achieve is one of the following:

- to target your resources more effectively at those in greatest need
- to meet more residents' long-term housing aspirations by improving access to homeownership
- to make better use of your existing stock
- to support more tenants into work
- to maintain sustainable communities.

The decisions you make will need to be consistent with your overall corporate objectives and your business plan therefore these issues need to be discussed at the most senior levels of your organisation. They will inform the detail of your tenancy policy - for example, if your corporate objective is to make more efficient use of your stock then your tenancy policy will look very different than it would if your objective were to improve access to homeownership.

In making these decisions you should consider:

- the local circumstances in which you are operating and how your business decisions will impact on the local community
- the local authority's vision for the area. Ultimately this will be set out in their tenancy strategy, but if this has not been produced yet, a good dialogue with the authority will help you to understand what they are trying to achieve, even if their strategy has not yet been formalised
- the profile of new tenants and applicants on the waiting list. What data do you have to help you understand the needs and aspirations of the households entering your stock?

Operational decisions

Having determined the broad objectives of your tenancy policy, you now need to consider the specifics of that policy.

Bearing your overall objectives in mind, you need to:

- set out the kinds of tenancies you are going to offer, and at what rent (where applicable). There are a whole range of potential options – these are set out in more detail in [The Practical Implications of Tenure Reform](#)
- set some specific criteria for the length of tenancy that you will offer to new tenants. Remember that five years is the minimum term for a fixed term tenancy, it does not necessarily need to be your default position and you do not need to make a straight choice between five years and a 'lifetime' tenancy. Decisions could also be made on the basis of place rather than the individual – for example, you could decide to use fixed term tenancies in urban areas, but not rural ones due to their potential impact on sustainable rural communities
- set some specific criteria for what you consider to be any 'exceptional circumstances' where it may be appropriate to offer a tenancy of less than five years
- consider 'households who are vulnerable' and establish your offer to them and to households with dependent children. Will they be offered a different type or length of tenancy than other applicants?
- define any groups that will always be given a 'lifetime' tenancy, for example, this could include older people or those with a long-term disability
- if your organisation is, or is going to be, offering some properties for let at affordable rent, this will also need some consideration. Will properties let at different rent levels also be let on different tenancy types?
- set some specific criteria to be used by officers when reviewing tenancies. In what circumstances would you not offer another tenancy (see page 4 for more detailed guidance on this issue) and where you do offer one, will the criteria to determine its type and length be the same or different to those used for new tenants?

- establish a process for reviews of tenancies. How frequently will you carry them out and who will conduct them? As a minimum tenants must have a review at least six months before the end of their fixed term (as you will need to give at least six months notice in the event that you decide not to renew the tenancy), but if your intention is to support tenants' longer term aspirations you may want to carry out more frequent visits. Are there existing processes, such as tenancy audits that could be amended to incorporate reviews?
- set some standards for the level of advice and support that tenants can expect on their housing options, both where their tenancy is not being renewed and in general. Will your officers provide this or will you deliver it through a partnership with another organisation?
- establish a process for internal review where a tenant wishes to challenge a decision. The Localism Act establishes a process for local authorities, while housing associations could develop a procedure based on their existing complaints process or the process tenants currently use to challenge the decision to end a starter, or another non-secure, tenancy
- decide whether to offer any discretionary succession rights, if you do not already have a position on this. The Localism Act reduces new local authority tenants' statutory rights to succession to bring them in to line with housing association tenants. Now only a spouse or partner who has lived with the tenant for 12 months has a right to succeed to their tenancy, however you should set out in your policy whether or not you will also choose to grant additional succession rights to other groups, such as a tenants' children. It is likely that many housing associations will already have a policy relating to this
- agree how frequently your policy will be reviewed.

One of the most challenging decisions you need to consider is the reasons why you may choose not to grant another tenancy at the end of a fixed term. The table below sets out some possible reasons, any decisions that you make regarding these should be aligned to your overall aims and objectives:

Situation	Reason
Property is under-occupied	To make best use of existing stock
Property is over-occupied	To prevent problems with housing conditions
Property doesn't match tenants' need	The property would better suit another occupant with higher needs. This might occur, for example, in an adapted property where the adaptations are no longer required
Tenant requires rehousing to a more suitable home/area	To prevent problems with housing conditions
Need to balance tenant mix on an estate/development	To be consistent with a local lettings policy or neighbourhood/estate plan
Tenant's circumstances have changed	To target resources at those in greatest need, for example, if there has been a substantial increase in income and the tenant could afford to rent privately or purchase a property
Disposal or refurbishment of property	To manage the organisation's assets

It is also possible to include anti-social behaviour and rent arrears as reasons why a further tenancy may not be granted. However, you should bear in mind that landlords already have powers to regain possession of a property in these circumstances and that the use of starter or introductory tenancies is likely to be a more effective mechanism for managing tenants' behaviour than fixed term tenancies. If anti-social behaviour and rent arrears are included, you will also need to make sure that your approach is reasonable and proportionate.

Consultation and communication

As with any policy, it will be vital to develop your approach in consultation with stakeholders and residents. You should consider who you will consult and at what stage of the process:

Strategic decisions: consult with the local authority, other landlords, other stakeholders, residents and potential residents on the overarching aims and objectives for your policy.

Operational decisions: consult again with residents and potential residents to agree the detail of your policy and to agree specific criteria for key decisions, like what lengths of tenancy will be offered and when a tenancy will not be renewed.

Remember that while many landlords already have effective mechanisms for engaging with their current tenants, not all regularly engage with wider communities and the applicants that are likely to become their future tenants. While actively involved tenants may be interested in helping shape your tenancy policy, they will not be directly affected it. This does not mean that their views are not valuable but bear in mind that it is vital to also engage with residents from the wider community and on waiting lists

It will be important to communicate the outcomes from your consultations widely and clearly. Your tenancy policy may result in a fundamental change to your housing 'offer', so it is vital that this is widely known and understood. Think about existing communication methods and whether these are suitable. Remember, you will need to communicate your tenancy policy wider than your existing tenants.

Likely challenges

There are a number of likely challenges to be aware of when developing and implementing your tenancy policy. It may help to consider how you are going to address these from the outset:

Tenancy policies are most easily developed by providers operating in a single geographical area: larger providers, providers with highly dispersed stock or those operating as part of a group structure face an additional challenge to operate a 'local' approach across a number of different authority areas, having regard to a number of different tenancy strategies

There could be potential conflict between the political aspirations/priorities of a local authority and aims of the housing provider: for example, some local authorities have expressed that they do not support the introduction of fixed term tenancies, whereas providers may see this as an opportunity. This will need to be worked through openly at the earliest opportunity

There is an additional challenge for providers that operate joint Choice Based Lettings schemes: there may now be a number of providers each offering different tenancy types and lengths and at different rent levels through a single scheme. There is now a challenge to maintain transparency, ease of use and to ensure that all applicants understand their options clearly.

Learning from others

Festival Housing are expecting to offer fixed term tenancies, usually for five years, to new general needs tenants in both social and affordable rent properties. Criteria for reviews will focus on ensuring that properties continue to meet tenants' needs and will address under occupation, over crowding, changes in health needs (such as adaptations needed or no longer needed) and significant changes in financial circumstances.

Contact: Clare Huyton chuyton@festivalhousing.org

Midland Heart have published a tenancy policy aimed at improving mobility and helping them to meet more of their tenants' long term housing aspirations. They intend to develop a 'future housing plan' with every new tenant, setting out their long term housing ambitions. To support them to achieve them, they will provide advice and assistance during the fixed term and will review the tenant's circumstances and aspirations at the end of each fixed term.

Contact: David Taylor david.taylor@midlandheart.org.uk

The **London Borough of Wandsworth**, which is a stock holding authority, published their Tenancy and Rent Strategy in July 2012 and their Tenancy Policy in October 2012. In early 2013 the council will, once some minor amendments to the Tenancy Policy have been approved and procedures and systems have been amended to ensure that tenancies are offered and managed correctly, start offering flexible fixed term tenancies in accordance with the policy.

Most applicants will be offered an initial five year flexible fixed term tenancy preceded by an introductory tenancy. However to help reduce worklessness in the borough, which is one of the council's strategic priorities, a small number of applicants who may not otherwise have sufficient priority to be offered a tenancy, will be offered the opportunity to participate in the council's Housing Into Work pilot. These applicants will be offered an initial two year flexible fixed term tenancy preceded by an introductory tenancy. The council will provide these tenants with advice and assistance aimed at helping them into employment and a condition of the tenancy will be that the tenant must engage with that support.

Contact: Chris Jones chrisjones@wandsworth.gov.uk

Useful resources and information

The Practical Implications of Tenure Reform

www.cih.org/publication-free/display/vpathDCR//templatedata/cih/publication-free/data/Practical_implications_of_tenure_reform

Managing the Impact of Housing Reforms in your Area: Working Towards the Tenancy Strategy

www.cih.org/publication-free/display/vpathDCR//templatedata/cih/publication-free/data/Managing_the_impact_of_housing_reforms_in_your_area

Practice online

www.cih.org/practiceonline

Local Decisions: A Fairer Future for Social Housing (DCLG)

www.communities.gov.uk/publications/housing/socialhousingreform

A Revised Regulatory Framework for Social Housing in England (TSA)

www.tenantservicesauthority.org/server/show/ConWebDoc.21636

London Borough Wandsworth Tenancy and Rent Strategy and the Tenancy Policy

www.wandsworth.gov.uk/downloads/download/131/housing_policies_and_strategies

Published January 2012

Revised January 2013



Chartered Institute of Housing

Octavia House

Westwood Way

Coventry CV4 8JP

Tel: 024 7685 1700

www.cih.org