



Tenancy Strategy 2012

Consultation Draft

Halton Borough Council Tenancy Strategy 2012

Introduction

This is Halton Borough Council's first Tenancy Strategy. It has been developed in response to the Localism Act 2011 which places a statutory duty on local authorities to develop a strategy which sets out what type of tenancies should be offered by Registered Providers of social housing (henceforth referred to as Providers) in the local area.

Context

The White Paper "*Local decisions: a fairer future for social housing*", published in November 2010, set out the Government's intentions to radically reform social housing in England. It is based on the premise that social housing should only be for those who need it and should act as a springboard to higher aspirations as individuals' circumstances improve. It points to long waiting lists, overcrowding and under occupation within the sector as evidence that the system is not currently working.

Central to the housing reforms is the introduction of a new time limited tenancy which is subject to review at the end of a fixed term to ensure that the tenant is still in need of the accommodation. In framing their tenancy policies, Providers should have regard to the local authority's approach to the new flexibilities as set out in its Tenancy Strategy.

There are some concerns that the new approach will reinforce residualisation of the sector, further stigmatise and disadvantage those in social housing and detract from efforts to promote community cohesion and tackle worklessness. These concerns are explored more fully later in this document.

In preparing this Strategy Halton Borough Council has had regard to its prevailing allocations policy and the sub regional allocations policy which will come into force when Halton introduces the Property Pool Plus Choice Based Lettings in 2012. The Council has also had regard to the Halton Homelessness Strategy 2009-13.

What the Tenancy Strategy covers

In accordance with the proposals set out in the Localism Bill, this Strategy sets out:

1. What kind of tenancies Providers should offer.
2. The circumstances in which Providers should grant a tenancy of a particular kind.
3. Where the tenancy is for a fixed term, the recommended length of the term.
4. Circumstances in which the Provider should grant a further tenancy on the ending of the existing tenancy.

The Strategy takes into account the local economic circumstances and housing needs prevailing at the time the Strategy was written.

Considerations

This section of the Strategy outlines the factors that have been taken into account in developing the Council's approach.

Relationship with Affordable Rent regime

In order to reduce the amount of public subsidy needed for new social housing development the Government introduced the affordable rent regime (where rents are pitched at up to 80% of market rents in the area) at the same time as fixed term tenancies. The Tenant Services' Authority (TSA) has introduced a new Tenancy Standard to take account of the new affordable rents.

Much of the language that surrounds fixed term tenancies and affordable rents seems to have become interchangeable and this appears to have caused some confusion around whether properties let at affordable rents must also be fixed term tenancies. However, the Homes and Communities Agency's National Affordable Housing Programme prospectus clarifies this issue:

"The TSA does not intend to prescribe the type of tenancy that Registered Providers should use when homes are let on Affordable Rent terms. Providers will have flexibility on the type of tenancy to be offered for Affordable Rent, and they will retain the option to offer lifetime tenancies should they wish to do so."

Social rented housing in Halton

Social rented housing makes up over a quarter of the total housing stock in the Borough, equating to 13,500 properties. In 2010 the Council commissioned consultants to undertake a Strategic Housing Market Area Assessment (SHMAA) for Halton and the surrounding areas of St Helens and Warrington. Analysis of the findings of the Halton study reveals that:

- Flats and maisonettes make up just over a quarter of the social rented stock, however, CORE data (which records new social housing lettings) reveals that turnover of this accommodation type is relatively high (making up 44% of general needs stock let in 2010/11).
- Almost two thirds of social housing tenants had lived in their home for more than five years.
- Average household sizes in the sector are lower than for other tenures.
- An estimated 2,251 (16%) social tenants under occupy their accommodation by at least two bedrooms (using the bedroom standard)¹, with 60% of those being non pensioner households without children (1,344).

¹ A separate bedroom is allocated to each married or cohabiting couple, any other person aged 21 or over, each pair of adolescents aged 10 - 20 of the same sex, and each pair of children under 10. Any unpaired person aged 10 - 20 is paired, if possible with a child under 10 of the same sex, or, if that is not possible, he or she is given a separate bedroom, as is any unpaired child under 10.

- An estimated 1,329 households (10%) are classed as overcrowded using the bedroom standard.
- A fifth of social housing tenants are unemployed and three quarters claim full or partial Housing Benefit (*source: HBC Housing Benefit records*).
- The median annual gross household income for social housing tenants in Halton was £9,821 with the median savings/debt level being £211 in debt. This gives a median figure of potential access to funds of £29,250, which is insufficient to access market housing.
- 1,528 social housing tenants indicated that they either need or are likely to move in the next two years with 80% of these preferring to stay in social housing and 17% wanting to buy a home.
- There is significant demand for social housing from private tenants and a quarter of owner occupiers with a mortgage who are looking to move would like to move to the sector.

It is clear from the findings of the survey that social housing in Halton plays a key role in meeting housing need and is valued both by existing social housing tenants and those currently housed in other sectors but current levels of under occupation indicate some scope to make better use of the housing stock. The survey also revealed that despite the relatively high proportion of existing social housing, there is a need for an additional 891 affordable housing units per annum.

Outcome of consultation with tenants, applicants for social housing and Registered Providers

To be inserted

Impact on vulnerable households

The use of fixed term tenancies, **if applied universally**, could have an adverse impact on vulnerable households. For example, approximately 1,000 elderly people under occupy their social rented home (SHMAA 2010). If those homes had been let on fixed term tenancies it is possible that the tenants would be forced to move which would uproot the elderly person from their existing community where they may be receiving vital support and the move could have an adverse impact on their health and emotional well being.

Families with children of school age could also suffer as a result of having to move, for example if the parents' financial situation improved. The children may need to move schools as a result of the move which could have an adverse impact on their educational attainment.

There are also potential issues of uprooting disabled people from suitably built or adapted accommodation or forcing someone to move from an area where they currently receive care (in which case they may need an extra bedroom) or give care to a vulnerable relative or other person.

Additionally, there are some social housing applicants who have complex and sometimes multiple needs, for whom the provision of a settled home is often a key determinant in them maintaining a more stable lifestyle. Examples include

recovering drug addicts and alcoholics or people with mental health issues. Other groups who may benefit from more stability include care leavers, people fleeing from harassment or domestic violence and people who have previously been sleeping rough.

This Strategy seeks to protect vulnerable people from being uprooted from settled, suitable accommodation, as set out in the second part of the Strategy.

Impact of planned welfare reforms

The Welfare Reform Bill proposes a number of changes to Housing Benefit (HB) which have implications for the Tenancy Strategy, as described below:

Increased deductions from HB for non dependents living in the property are being phased in until 2013. This could cause a dichotomy for families with non dependent children as, if they are on a fixed term tenancy, and they encourage their children to seek other accommodation as a result of the increased financial pressure they could risk losing their home due to resulting under occupation and receive an under occupation penalty on their HB as described below.

The Government proposes to impose a cap on Universal Credit when it is introduced which will be set at the average earnings of a working family. If this amount is exceeded then HB payments will be reduced accordingly which could increase the number of households in rent arrears. If a build up of rent arrears is one of the criteria for ending a fixed term tenancy they could also lose their home as a result.

Universal Credit, which it is proposed will include Housing Benefit, will be paid directly to the claimant. Consequently there is an increased risk of households falling into arrears with their rent which could result in them losing their home.

The Government proposes reducing HB payments for working age tenants who are occupying accommodation that is too large for their needs. While again there is a risk of rent arrears being accrued initially, in this respect, fixed term tenancies may actually help to make best use of the housing stock and minimise the risk of increased arrears. However, the ability of Providers to rehouse under occupying tenants in smaller accommodation is dependent on the availability of suitably sized properties.

Potential burden on Registered Providers

If Providers decide to use fixed term tenancies they are likely to experience additional administrative burdens resulting from tenancy reviews, providing advice and securing alternative accommodation for households whose tenancy is not being renewed, and dealing with appeals.

Finally, if tenancies are not renewed, Providers will need to meet the costs associated with bringing properties up to an acceptable standard in order to attract a new tenant and with rent loss for the period the property is empty.

Mortgage availability

The current housing market downturn was primarily triggered by the realisation of the scale of bad debts held by the financial institutions. As a consequence banks and building societies are now much more cautious in their lending practices meaning that potential borrowers are required to pay much greater deposits and lending multipliers have reduced. For example, "in 2007 the average deposit paid by a first time buyer in the UK was 10% of the property value, by the end of 2009 this figure had increased to 25%" (Hometrack Feb 2010).

Consequently even if the financial circumstances of social housing tenants improves, this is not a guarantee of them being able to access market housing since they would need substantial savings, which could take several years to build up, to be able to secure a mortgage.

Capacity and suitability of the private rented sector

Since the recent housing market downturn the private rented sector has played an increasingly significant role in meeting housing needs for two distinct groups. On the one hand there are those households who traditionally would have sought market housing but are unable to do so due to steep house price increases and/or the lack of a sufficient deposit to satisfy mortgage requirements. On the other, there are those who traditionally would have sought social rented housing but are unable to access the sector due to an increase in housing waiting lists and a declining number of vacancies caused by reduced mobility from the sector into owner occupation.

The private rented sector in Halton has grown by around 46% since the 2001 Census and now makes up around 10% of the housing stock. It is likely that this growth is attributable to a combination of factors. Firstly, from the widespread availability of buy to let mortgages in the years leading up to the downturn which was augmented by the concept of housing as a prudent investment. And in more recent years there has been a growth in the number of "reluctant" landlords who are unable to sell their properties in current market conditions and consequently let them out on a short term basis to realise a regular income until the housing market improves.

Despite the growth in the sector locally, Halton's private rented stock is still proportionately smaller than national and regional levels and anecdotal evidence from Halton's Strategic Housing Market Assessment reveals that demand for private rented housing currently outstrips supply by a ratio of around 5:1. Furthermore the SHMA, and the Halton Private Sector Stock Condition Survey conducted in 2009, found that housing conditions in the sector are significantly worse than in other tenures with higher levels of non decency, category 1 hazards and lower levels of energy efficiency.

There is, therefore, concern that fixed term tenants whose tenancies are not renewed and are not offered alternative social housing could be forced to seek accommodation in an already overburdened sector and to accept poorer housing conditions than those they previously enjoyed.

Potential impact on homelessness

Households whose tenancies are not renewed for whatever reason and are unable to purchase a property or secure private rented housing for the reasons stated above may find themselves homeless. This could result in additional pressure on the Council's Housing Solutions service and, depending on the circumstances of the household, could potentially result in them receiving an offer of another fixed term tenancy in the social rented sector. This would seem to defeat the object of using fixed term tenancies as a means of creating mobility within the sector and would undoubtedly lead to unnecessary stress to the household and cost to the Council and Providers.

Impact on sustainable communities

Halton shares many of the social and economic problems more associated with its urban neighbours on Merseyside. Halton is ranked the 27th most deprived borough nationally according to the 2010 Indices of Multiple Deprivation (IMD) and 21 Lower Super Output Areas (LSOAs) in Halton fall within the top 10% most deprived LSOAs in the country, with 10 LSOAs in the top 3%.

Due to the development of the Runcorn New Town, much of Halton's social housing stock is heavily concentrated in well defined and sometimes fairly isolated neighbourhoods and it is these areas that are ranked highest in terms of multiple deprivation. For example, the most deprived area in the Borough, Windmill Hill, has the highest concentration of social housing, exceeding 95% of the total housing stock and similar levels of deprivation are shown for areas like Castlefields, Halton Lea and Hough Green, all of which contain large social housing estates.

There is a need, therefore, to diversify not only the housing offer but also the socio economic mix of households living in these areas to prevent further decline and provide sustainable communities. Evicting fixed term tenants due to an improvement in their financial circumstances could act against the aspiration to create mixed and balanced communities and could further stigmatise social housing. There is also a risk that tenants will be less willing to look after their properties and invest in their communities if they have less security of tenure.

The Tenancy Strategy

Halton Borough Council does not intend to prescribe the type of tenancy that Providers must offer their tenants and we recognise that many Providers with accommodation in Halton also operate across other local authority areas, where local circumstances and the recommended approach may differ.

This Strategy represents the Council's views and is intended to provide guidance to Providers with stock in Halton to assist them in framing their own tenancy policies. It has taken a great many years for tenants of social housing to secure the rights they now enjoy, and these should not be surrendered without strong justification.

However the Strategy does not preclude the use of fixed term tenancies, should Providers wish to adopt them to make best use of the housing stock, but recommends the parameters as to their use bearing in mind the considerations outlined earlier in the Strategy and the overriding need to build and maintain sustainable, cohesive communities.

The type of tenancies Providers may provide.

Introductory tenancies – Also known as “probationary tenancies”, these can be offered to new tenants and would not apply to tenants transferring from one Provider (or local authority) property to another, irrespective of whether the property is let at a social, affordable or intermediate rent. The introductory period normally lasts for a period of 12 months and, provided there has been no breach of tenancy that would warrant eviction within that time, can be converted to an Assured Tenancy once the 12 months has elapsed. However, if the Provider has reason to believe that the tenant has breached the tenancy agreement it can from April 2012 extend the introductory period beyond 12 months.

Assured tenancies – Providers may continue to offer assured tenancies to transferring tenants, tenants converting from an introductory tenancy (or new tenants where there is no introductory scheme in place) regardless of whether the property is let at a social, intermediate or affordable rent.

Secure tenancies – Providers will not offer secure tenancies to new tenants as they are reserved for local authority use. However some Providers will have tenants with secure tenancies where the tenancies have been assigned to a Provider following a housing stock transfer.

Assured Shorthold tenancies – Providers have always been able to use Assured Shorthold Tenancies in certain circumstances e.g. provision of temporary accommodation. This Strategy does not seek to encroach on this. Within the context of this Strategy it is anticipated that this form of tenure will be used for “fixed term tenancies”. Providers may use the new fixed term tenancies for new tenants, regardless of whether the property is let at a social, intermediate or affordable rent. It is recommended that the term of the tenancy will be for a minimum of five years. In framing tenancy policies and determining the circumstances in which fixed term tenancies should be granted or ended, Providers are requested to adhere to the Council's recommendations as set out below.

The circumstances in which Providers should grant a tenancy of a particular kind.

Halton Borough Council would prefer that future social housing tenants maintain the security of tenure currently enjoyed by existing tenants. However, it recognises that Providers may wish to take advantage of the new tenure flexibilities in order to make the best use of their housing stock. If this is the case, the Council considers that fixed term tenancies are **not suitable** in the following circumstances.

- 1) Where the household is transferring from an existing Provider assured or local authority secure tenancy which was granted prior to 1st April 2012. This is to ensure that there are no disincentives for existing tenants to move to a more suitable or desirable property and there are no barriers to normal “churn” within the sector.
- 2) Where the property is part of a supported housing development that provides specialist accommodation for particular client groups, including sheltered housing.
- 3) Where the tenant is someone over the prevailing state retirement age.
- 4) 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.
- 5) 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.

Where the tenancy is for a fixed term, the recommended length of the term.

Where a fixed term tenancy is offered, it is recommended that the term be for a minimum of five years. Providers may wish to offer longer periods as a matter of organisational policy but the Council sees no circumstances in which it would be appropriate to offer a fixed term tenancy for less than 5 years.

Circumstances in which the Provider should grant a further tenancy on the ending of the existing tenancy

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.

Circumstances where the tenancy may not be renewed include:

- 1) There has been a change in the composition of the household which has resulted in the household under occupying the accommodation by more than one bedroom. In these cases the Provider would be expected to arrange a move to a more suitably sized property within their own stock or with another Provider either through a transfer or mutual exchange.

In determining whether or not a property is classed as under occupied Providers should have regard to the 'bedroom standard'. However, when making their decision Providers should also consider that while a household could technically be under occupying their accommodation using this criterion at the time of review, due to the age and sex of dependents they may not be in years to come and that a move to a smaller property could lead to overcrowding in the future. In these circumstances the Council recommends that the existing tenancy is renewed unless the household expresses a wish to move due to being unable to afford the rental contribution following changes to HB based on under occupation.

This exception should also apply where the property is under occupied but this is not as a result of a change in household circumstances (e.g. due to low demand for the property it was under occupied on allocation);

- 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. The Council does not want the use of fixed term tenancies to be a barrier to households seeking employment or attempting to improve their income and lifestyle through career progression and, therefore, would expect that this criterion would only apply infrequently.
- 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. In these cases, the Council expects that the Provider will arrange for alternative suitable accommodation to be secured either through a transfer or mutual exchange within its own stock or another Providers.

The Council expects that Providers will have robust and fair appeals processes in place to resolve any disputes that may arise.

The Council does not expect Providers to use fixed term tenancies as a short cut to enforcement procedures for breaches of tenancy conditions but accepts there may be circumstances where enforcement proceedings are so far advanced that it would not be appropriate to renew a tenancy. It will be for Providers 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.

When securing alternative accommodation for the household, Providers should take into account so far as is possible the household's area(s) of choice and whether they need to live in a particular area to give or receive care or support.

Providers are expected to contact tenants whose tenancies are due for renewal within a reasonable time period to assess the household circumstances and discuss options available to the household. Government guidance recommends a review period of six months, however Providers may want to consider making an initial contact with the household before this to ensure that there is sufficient time for the Provider to arrange alternative accommodation or for the household to purchase a home where this is likely to be deemed necessary.

Period of Strategy

It is intended that this Strategy provides guidance for Providers in setting their tenancy policies until such time as a new Strategy can be developed following the publication of further guidance from the Government.

Monitoring and review

The impact of this Strategy will be monitored as part of the monitoring framework for Choice Based Lettings. Should a need to review or amend the Strategy be identified as part of this process, the Council will consult Providers and any such other persons as may be prescribed by the Secretary of State.