

Chesterfield Borough Council

DRAFT Tenancy Strategy Update 2020

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1. Introduction

- 1.1 The aim of the tenancy strategy is to provide guidance to registered providers on the type of tenancies the council wants to see used in lettings in the Chesterfield Borough Council area.
- 1.2 The Localism Act 2011 sought to expand the use of fixed term tenancies in the affordable housing sector in England. As the range of tenancy options increased the Localism Act 2011 required local housing authorities in England to prepare and publish a 'tenancy strategy' setting out the matters to which the registered providers of social housing for its district are to have regard of in formulating policies to:
 - the type of tenancies they grant
 - the circumstances in which they will grant a tenancy of a particular kind
 - where they grant tenancies for a fixed period
 - the circumstances in which they will grant a further tenancy towards the end of an existing tenancy
- 1.3 Any registered provider seeking to utilise fixed term tenancies will also have to publish a tenancy policy in order to be able to do so.
- 1.4 The original tenancy strategy was published in 2012. As the objectives of the original strategy remain relevant a review and refresh to ensure that more recent legislation and local circumstances are updated within the document.
- 1.5 Chesterfield Borough Council's Housing Service will produce a tenancy policy setting out its own tenancy offer after the approval of the revised tenancy strategy.

2. Context

National legislative changes

2.1 Since the introduction of the Localism Act 2011 several other pieces of legislation have been enacted that impact on the tenancy offer that can be offered by local authorities and registered providers. A summary of the tenancy types is set out in **Appendix 1**.

Housing and Planning Act 2016

2.2 The [Housing and Planning Act 2016](#) legislation sought to introduce fixed term tenancies for new local authority tenancies (with a small number of exceptions). By 2018 the Government stated that provision to end local authorities powers to offer lifetimes tenancies will not be enacted 'at this time.' If the Government changes position then a full review of the tenancy strategy will be required.

Homelessness Reduction Act 2017

2.3 The [Homelessness Reduction Act 2017](#) added two new duties to the original statutory rehousing duty:

- A duty to prevent homelessness
- A duty to relieve homelessness

The legislation extends entitlements to help, places a renewed focus on the prevention of homelessness and local joint working, and has the potential to provide more client-focussed, personalised statutory homelessness services.

Secure Tenancies (Victims of Domestic Abuse) Act 2018

2.4 The [Secure Tenancies \(Victims of Domestic Abuse\) Act 2018](#) supports victims of domestic abuse in social housing to leave their abusive situation. The bill will require local authorities, when re-housing an existing lifetime social tenant, or offering them a new sole tenancy in their own home, to grant a new lifetime tenancy if the local authority is satisfied that the tenant or a member of their household has been a victim of domestic abuse and the new tenancy is granted in connection with that abuse.

Local policy changes

Council Plan 2019-23

2.5 The Council Plan 2019-2023 sets out the council's priorities. The tenancy strategy links into two priorities:

- Improving quality of life for local people
- Providing value for money services

Housing Strategy 2019-23

- 2.6 The tenancy strategy will link into the Council's [Housing Strategy 2029-2023](#), which sets out the council's wider ambitions for housing. The third objective is to 'Meet housing needs in Chesterfield'. Ensuring the tenancy strategy is reviewed and setting out the types of tenancies offered and in what circumstances will play a role in delivering this.

Strategic housing market assessment update

- 2.7 The [Strategic housing market assessment update](#) 2017 identified a small surplus in affordable housing provision in Chesterfield. This surplus was primarily generated by a high turnover of flats in the affordable housing stock. The main driver for the Government introducing fixed term tenancies was to increase the supply of affordable housing to those in genuine need. In Chesterfield Borough the high level of supply reduces the need to introduce fixed term tenancies.

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3. Objectives

3.1 The overall objective of the tenancy strategy is:

'To ensure that registered providers of affordable housing in Chesterfield can use their properties as effectively as possible to provide homes for Chesterfield residents in housing need.'

Although the preference of Chesterfield Borough Council is for registered providers operating in the Borough to offer lifetime tenancies, we recognise that the use of flexible tenancies can help meet the overall objective.

3.2 When utilising fixed term tenancies, we expect registered providers to:

- a) Help more people move on from affordable housing once they are able to sustain an alternative solution, such as home ownership or the private rented sector.
- b) Tackle under-occupation by giving local registered providers more opportunity to move people to smaller accommodation if they find themselves in a property that is too big for them. This will release larger properties for those that need them, including overcrowded households.
- c) Encourage tenants to take control of their lives by providing support when it is needed at the time of crisis, but encouraging people to prepare for independence once their situation has improved by making it clear from the start of their tenancy that the arrangement is not necessarily a permanent one.

3.3 The council is aware that registered providers often work across many local authority areas but where possible the council would like to ensure all tenancy policies are transparent and so far as possible, equitable to housing applicants. Registered providers are expected to provide information and consult on their tenancy policies with both tenants and the council.

4. Tenure offer

Type and length of tenancy

- 4.1 The council's preference is for registered providers to offer a lifetime tenancy to tenants. If registered provider intends to use a fixed-term tenancy it should be for a minimum period of ten years. The council believes this ensures social housing residents in Chesterfield have a reasonable degree of security whilst also allowing registered providers to make best use of stock without creating a significant administrative burden.
- 4.2 The council supports properties being let at social and affordable rents to households on the Housing Register. The council expects that all affordable rent' properties the Council has nomination rights to will be let to households in need, as prioritised via the allocations policy.

The Council supports registered providers using introductory tenancies

- 4.3 Introductory tenancies are tenancies often for 1 year, which provides the tenant with a trial period. Tenants can then progress to fixed term or secure tenancies. The introductory tenancy is a useful tool for landlords to address issues such as anti-social behaviour.

Fixed Term Tenancies of less than ten years

- 4.4 The Council will support tenancies of less than ten years in the following circumstances:
- a) Where the tenancy is offered in a property which is due to be decanted for regeneration purposes.
 - b) In 'exceptional circumstances', for example where a tenant has not managed a previous tenancy well or has a history of anti-social behaviour or non-payment of rent.
- 4.5 The Council expects registered providers to offer tenancies of at least ten years duration to vulnerable households. In these situations, a longer fixed term with an assumption to renew or a lifetime tenancy will be suitable. The Council supports this approach in cases such as, but not limited to, the following:
- a) people with a long and enduring illness or condition of a serious nature and where a person's circumstances are unlikely to change;
 - b) older people in sheltered accommodation;
 - c) families with disabled children (where in the medical examiners view a longer tenancy would provide stability);
 - d) people leaving care; and
 - e) injured ex-service personnel.

- 4.6 Secure tenancy rights of existing housing association tenants should be protected so as not to discourage downsizing or movement within the housing association stock and cross borough mobility schemes.
- 4.7 In cases of domestic abuse where a tenant of social housing either flees their property or makes an application to turn their joint tenancy into a sole tenancy, the Council supports a 'like for like' approach. In all circumstances where a tenant has a lifetime tenancy, a tenancy with the same security of tenure must be offered if the registered provider is satisfied that the person or member of the person's household is or has been the victim of domestic abuse carried out by another person and the registered provider grants a new tenancy for reasons connected with that abuse. This is in line with the Secure Tenancies (Victims of Domestic Abuse) Act 2018 and the Council expects registered providers to follow this approach as the legislation includes 'assured tenancies' within the definition of a 'qualifying tenancy' under the Act.

5. Fixed term tenancy reviews

- 5.1 The Council expects tenancies generally to be renewed and fixed term tenancies should not detract from maintaining stable communities. Tenants with longer fixed term tenancies are more likely to invest in their homes and contribute to their communities. Any Registered Provider utilising fixed term tenancies must have a published tenancy review criteria.
- 5.2 When tenancy reviews take place they should be carried out no later than six months prior to the end of the tenancy allowing enough time for information to be collated and considered as well as allowing time for appeals. The Council recommends earlier reviews in certain circumstances such as under-occupation where a registered provider is likely to need to source suitable alternative accommodation.
- 5.3 Prior to coming to the end of an existing fixed term tenancy of a property in Chesterfield Borough registered providers should review the tenant's household circumstances and housing options, in a manner that is sensitive to their needs, to determine:
- a) Whether they can (where income and savings allow) be assisted to purchase another suitable property outright or on a shared ownership/ equity basis; and
 - b) Whether another tenancy should be offered, and if so, should this be at the same property or one or more different properties
- 5.4 In making these decisions, they should consider the following:
- Household profile - under occupation may be one of the principle reasons that a tenancy is not renewed and smaller accommodation (appropriate to the household's size) offered as an alternative
 - Tenancies may also not be renewed where the property has been extensively adapted for a person with disabilities and where the person with a disability no longer resides in the property
 - Household income and financial circumstances - making decisions on tenancy renewal registered providers should work positively with tenants who have had a substantial positive change in financial circumstances to highlight opportunities to either purchase a shared ownership property or buy on the open market.
- 5.5 The council is of the view that registered provider tenants should not be penalised by non-renewal of tenancies for improving their economic circumstances.
- 5.6 The council recognises that there may be circumstances in which it would be unreasonable to expect someone to move even if the above criteria applied,

and will expect a registered provider to allow a tenancy to continue if any of the following apply:

- Those with health, disability and care needs the process of tenancy review should involve input from relevant health and social care professionals and carers with a presumption to renew. This should also consider if the tenant is a care leaver and continuing to receive support from social care.
- The council expects that for households with children, registered providers should, except for in exceptional circumstances, renew the tenancy. If the tenancy is not renewed, registered providers should consider any impact moving home will have at critical points in education, such as when taking examinations.
- The council would expect pensioner households to be moved on a voluntary basis, noting there may be some exceptions. The need to be near medical and caring/family support networks should always be factors for registered providers to consider when offering alternative accommodation for older and vulnerable households.
- The tenant or a member of their household is suffering from a terminal illness
- The tenant is a foster carer and the tenancy needs to continue to enable them to fulfil this role.

Non-Renewal of Fixed Term Tenancies

- 5.7 Where tenancies are not renewed for breach of tenancy on grounds such as the behaviour of the tenant(s) and their household members during the tenancy, issues in relation to anti-social behaviour, non-payment of rent or general management of the tenancy by the tenant, registered providers should work with tenants, providing adequate time and advice for the household to find alternative accommodation.
- 5.8 If a non-renewal of tenancy is being done on income grounds then the Register Provider should also provide adequate time and advice for the household to find alternative accommodation.
- 5.9 In addition, the Housing Options team at Chesterfield Borough will be able to assist tenants with a wide range of advice to help them resolve the issues arising out the termination of their tenancies. This will include signposting to other departments within the Council and to voluntary organisations that help people with their housing issues.
- 5.10 If a household is likely to become homeless as a result of the ending of a fixed term tenancy then the Registered Provider should notify Chesterfield Borough Council's Homelessness team at the earliest opportunity.

Appeals

- 5.11 If a tenant disagrees with the decision reached by their landlord to terminate their tenancy, they must have recourse to an established and published appeal process.

- 5.12 Applicants who are appealing their decision should have the right to request general information about their tenancy review from their landlord, including the facts that have been taken into account and the reasons for terminating their tenancies. An applicant who is unhappy with a decision made under this policy should in the first instance contact their landlord to explain why they think that the decision is unreasonable.
- 5.13 The landlord's right of possession may be challenged in the county court only on the grounds that the landlord has made a legal error or a material error of fact.

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Appendix 1: Tenancy types

Social rented tenancies

- Offered by Local Authorities as secure tenancies and registered providers of social housing as assured tenancies.
- Tenancies are lifetime tenancies. If the household keeps to the terms of their tenancy agreement, they can remain in the property.

Flexible tenancies

- All social landlords can offer a flexible fixed term tenancy as an alternative to a traditional secure or assured tenancy
- Individual landlords have the flexibility to decide what length of tenancy they should offer – based on their current levels of housing stock and the needs of individual tenants.
- A 'flexible tenancy' can be offered on a minimum fixed term of five years, or exceptionally a tenancy for no less than two years - but with longer terms if they wish.
- Under a flexible tenancy, the tenants' circumstances will be reviewed at least 6 months before the end of the tenancy to assess if the tenancy should be extended.

Affordable rent

- Affordable rent is not a tenure type. Affordable rent is a product that can be offered as part of a secure, assured or a flexible, fixed term tenancy
- Registered providers will be able to charge rents of up to 80% of market rents – these will be higher than the social rents currently charged.
- Affordable rent tenancies are intended to provide an alternative to social rent.
- Affordable rent tenants will be eligible for housing benefit.

Potential tenancy/ rent products registered providers can offer:

	Traditional tenancy (secure or assured)	Fixed term tenancy
Social rent	Local authority – secure tenancy Registered provider – assured periodic tenancy let at a social rent	Local authority – flexible tenancy let at a social rent Registered provider – fixed term assured shorthold tenancy let at social rent
Affordable rent	Local authority – secure tenancy let at an affordable rent Registered provider – assured periodic tenancy let at an affordable rent	Local authority – flexible tenancy let at affordable rent Registered provider – fixed term assured shorthold tenancy let at affordable rent