

Tenancy Strategy 2019-2024



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1. Executive Summary

- 1.1 This document is Bedford Borough Council's Tenancy Strategy for the period 2019-2024.
- 1.2 The Localism Act 2011 introduced Assured Shorthold Fixed Term Tenancies for social housing including both Local Authority and Registered Provider (RP) housing.
- 1.3 These tenancies are not mandatory and the change does not affect existing tenancies.
- 1.4 Whilst the change to Assured Shorthold Fixed Term Tenancies would reduce the security of those tenants affected; the case for the change is that it will increase the efficient use of the affordable housing stock to meet housing needs.
- 1.5 As Bedford Borough Council has transferred its housing stock to bpha, in Bedford Borough the change takes the form of RPs offering Assured Shorthold Tenancies with a minimum period that will normally be at least five years rather than Assured Tenancies for a lifetime.
- 1.6 The regulatory requirement on RPs is that tenancies offered should be "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."
- 1.7 The Localism Act 2011 places a statutory duty on Local Authorities to adopt a Tenancy Strategy. This Strategy is not binding on RPs who will each have their own Tenancy Policies.
- 1.8 Bedford Borough Council's Tenancy Strategy is guidance to RPs. It seeks to balance the importance of security and the need to support sustainable communities with the need to make good use of the affordable housing stock.
- 1.9 The balance that it proposes is that lifetime tenancies should be retained except for properties with three bedrooms or more and for properties with substantial adaptations or designed features for people with disabilities.
- 1.10 Where tenants continue to qualify for the size of property occupied or have need of the features designed for people with disabilities the Strategy advises that tenancies should be renewed.
- 1.11 The reason for this balance is the general principle that lifetime tenancies give important security to tenants and support sustainable communities. Assured Shorthold Fixed Term Tenancies should be used where the costs of provision are exceptional and the need to make efficient use of the resource that much greater.
- 1.12 The Tenancy Strategy also sets out the steps that RPs and the Council should take to inform and support tenants who are offered Assured Shorthold Fixed Term Tenancies.
- 1.13 The Tenancy Strategy will be reviewed every five years.

2. Introduction

- 2.1 This is Bedford Borough Council's Tenancy Strategy for the period 2019-2024. The Tenancy Strategy continues to provide guidance for Registered Providers (RPs) operating in the Bedford Borough area.
- 2.2 The Localism Act 2011 introduced a duty for local authorities to produce a Tenancy Strategy. This includes local authorities, like Bedford Borough Council, that are not social housing providers themselves. The Tenancy Strategy relates to the affordable housing sector.
- 2.3 This Tenancy Strategy is an updated version of the document which was in place between 2014-2017. This update incorporates the applicable changes of more recent legislation which is outlined below.
- 2.4 The Localism Act 2011 introduced Flexible Tenancies which may be granted by Local Authorities as a modified form of Secure Tenancy. A Secure Tenancy is open-ended and is normally secure for the lifetime of the tenant. A Flexible Tenancy is granted for a Fixed Term which must be for a minimum of two years. The main aim of this is to make better use of the existing homes and encourage tenants to use affordable housing opportunities as a stepping-stone to move to other more aspirational tenures.
- 2.5 Where a Local Authority grants a Secure Tenancy a Housing Association grants an Assured Tenancy. The equivalent of a Local Authority Flexible Tenancy will be the RPs Assured Shorthold Tenancy which is an already established form of tenancy and provides for a fixed term.
- 2.6 The Welfare Reform and Work Act 2016 introduced a lower Benefit Cap and a 1% annual social housing rent reduction for each of the following four years 2016-2020.
- 2.7 The Housing and Planning Act 2016 included restrictions for Local Authority tenancies to be fixed term rather than secure. This has not been made applicable to RPs.
- 2.8 Bedford Borough Council transferred its affordable housing stock (with a few minor exceptions) to bpha in 1990. The implications for RPs are therefore what matters in the Bedford Borough context. There are a number of RPs that operate in Bedford Borough.
- 2.9 Previously RPs were required by regulation when letting social rented housing to 'offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'. This effectively required providers to grant 'lifetime tenancies' to the vast majority of new tenants in general needs, social rent housing.
- 2.10 The revised regulatory requirement is: "Registered Providers shall offer 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." (HCA Regulatory Framework, Tenancy Standard April 2012). The revised regulatory requirement opens the way for a reduction in the security of some tenancies at future letting in the interests of a more efficient use of the housing stock.
- 2.11 Tenancies are granted by social housing providers and each Registered Provider will have its own tenancy policy within this framework.

2.12 The Council's Tenancy Strategy sets out what the RPs of social housing in Bedford Borough should take into account in formulating their own tenancy policies relating to: -

- The kinds of tenancies they grant,
- The circumstances in which they will grant a tenancy of a particular kind,
- Where they grant tenancies for a limited term, the lengths of the terms,
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

2.13 This Tenancy Strategy is therefore guidance to be taken into account by RPs of social housing in Bedford Borough. RPs are not however, under a legal or regulatory obligation to conform to the Council's Tenancy Strategy.

2.14 In formulating this Tenancy Strategy the Council has considered its Housing Strategy Review, Homelessness Strategy and Allocation Scheme.

2.15 The Tenancy Strategy takes into account the requirements of the Equalities Act 2010. An Equality Analysis has been undertaken on this strategy to ensure that equality and diversity have been fully recognised and embedded. The equality analysis determined that there is a potential impact on three protected groups: Older persons, those with disabilities and those from BME communities. These impacts may be beneficial. The impact of the Strategy on these protected groups will be reviewed in the 2019/20 strategy review and the strategy reflects this at 4.8.

2.16 The Tenancy Strategy will be reviewed every five years however, there will be annual monitoring of the Assured Shorthold Fixed Term Tenancies that have ended and those tenancies that have continued beyond five years. The first review of the Strategy will take place in 2019/20 which will be when the first Assured Shorthold Fixed Term Tenancies introduced will come to an end.



3. Objectives

3.1 Bedford Borough Council's Corporate Plan 2017-2021 has four identified goals to:

- Support people
- Enhance places
- Create wealth
- Empower communities

3.2 Bedford Borough Sustainable Communities Strategy 2009-2021 identifies the key goal of within the 'Growing Borough: Housing and Transport' theme as:

“A Borough where the supply and quality of housing and transport is capable of supporting the needs and aspirations of the Borough's population now and in the future”

3.3 The Strategy recognises the need to ensure that there is enough affordable housing to meet the needs of the Borough and to ensure that vulnerable households are supported where appropriate.

3.4 Bedford Borough Council is committed to meeting the housing needs of residents, to providing new affordable housing, to bringing empty homes back into use and to working effectively to prevent homelessness. Alongside this the Housing Strategy Review 2016-2020 identifies making best use of the existing housing stock as a key theme and priority. The Council recognises the importance of making best use of what is a scarce resource and ensuring social housing is available for those who most need it and supports some use of flexible and

Assured Shorthold Fixed Term tenancies as an important way of achieving this.

3.5 This Tenancy Strategy links to three of the four key themes identified in the Council's Housing Strategy Review 2016-2020:

- Housing Needs and the Housing Market
- Making Best Use of the Existing Housing Stock
- Homelessness and meeting the needs of vulnerable people

3.6 The Housing Strategy Review includes the following objective: Develop a robust approach to allocations and tenancies that meets the needs and priorities of the Borough and maximises the use of available resources.

3.7 In accordance with the Housing Strategy Review an important objective of the Tenancy Strategy is to ensure that housing needs are met and that resources are used in the most effective way to meet those needs. This is consistent with the Council's Allocation Scheme and with the Council's statutory duties to homeless households.

3.8 The Council recognises that stability is important to individuals and their families and to the wider community. The Housing Strategy Review also makes clear that the Council is committed to creating and maintaining sustainable communities.

3.9 The Tenancy Strategy seeks to balance these different objectives by supporting only limited use of Assured Shorthold Fixed Term Tenancies.

3.10 The Council will work with RPs to encourage tenants to take control of their lives and help them to move into market housing once their situation has improved.



3.11 Homes England's Regulatory Framework has parallel requirements relating to allocations. It says:

“Registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings:

- ***Make the best use of available housing***
- ***Are compatible with the purpose of the housing***
- ***Contribute to local authorities' strategic housing function and sustainable communities”***

3.12 RPs are required to let most of their tenancies in accordance with Bedford Borough Council's Allocations Scheme.

4. Tenancy Strategy

Assured Shorthold Fixed Term Tenancies

- 4.1 The Council acknowledges that the decision to use Assured Shorthold Fixed Term Tenancies, and the length of these tenancies, lies with the Registered Provider. RPs are strongly encouraged to consult with the Council on their proposed tenancy policies before these are adopted and issued.
- 4.2 The Council's approach is to balance the need to make best use of the stock against the need of individuals and their families for stability and to support sustainable communities. Therefore in the Council's view there are limitations to the circumstances in which flexible and Assured Shorthold Fixed Term tenancies are appropriate. The terms of those tenancies need to be carefully considered and the support available to tenants needs to be in place.
- 4.3 The Localism Act set a minimum of two years for Assured Shorthold Fixed Term Tenancies. The Government recommends that five years is given with two years being offered only in exceptional circumstances. This may apply if, for example, a household has had rent arrears or a history of antisocial behaviour. However, most RPs in Bedford Borough offer Starter Tenancies for a 12 month period and would continue to adopt this approach prior to granting a five year Assured Shorthold Fixed Term Tenancy. The Council suggests that five years should, therefore, be the usual period for a fixed term tenancy. The Council has reviewed the current Tenancy Policies of RPs who are active in Bedford Borough in preparation for writing this Strategy and the majority are consistent with this Tenancy Strategy.

- 4.4 The Council is keen to encourage security and stability in the social housing sector to allow people to feel part of their community. The minimum length of five years will help to achieve this. The impact of flexible and Assured Shorthold Fixed Term Tenancies will be reviewed by the Housing Strategy Team to consider whether excessive movement in local populations has been a problem in any particular locality. Local lettings policies may be considered where appropriate. It is proposed that a comprehensive tenancy review is undertaken once the original Assured Shorthold Fixed Term Tenancies are due to end in 2019-2020.
- 4.5 Assured Shorthold Fixed Term Tenancies may be offered either for reasons related to the nature of the dwelling or for reasons related to the circumstances of the household.



4.6 The council's view is that RPs should therefore, only adopt 5 year Assured Shorthold Fixed Term Tenancies for:

- Three bedroom properties and larger.
- Properties with significant adaptations for people with disabilities or designed to be suitable for people with disabilities.

4.7 In both the above cases significant additional public resources have been committed to delivering a dwelling that meets a particular need and it is important that this resource is targeted at those households that do need it. The social housing stock in Bedford Borough at 2014 includes 3,241 three bed (26% of RP dwellings), 303 four bed (2.4% of RP dwellings) and 41 five bed and above (0.3% of RP dwellings). Adapted properties amounted to 768 dwellings (6% of all RP dwellings) in the Borough. Where tenants continue to qualify for the size of property occupied or have need of the features designed for people with disabilities tenancies should be renewed. In some circumstances financial assistance may be available to assist those downsizing. For example bpha has a 'Room to Move' policy which offers up to £2,000 to qualifying households moving to smaller accommodation.

4.8 Wherever possible, where tenancies are not renewed and residents continue to qualify for the Housing Register, residents should be offered suitable alternative accommodation in an area of their preference.

4.9 The following issues will be considered in the comprehensive tenancy review in late 2019-2020:

- Older persons are most likely to be under occupying their property. The impact of this strategy on older persons will be analysed.
- It is possible that those from the BME community may be more impacted by this strategy if they are more likely to occupy larger affordable rented properties. There is no data available to evidence this. Further information will be sought as part of the review of the impact of the strategy.
- Homeless households are often at a period of crisis in their lives which does not necessarily reflect their long-term housing needs and the resources available to them. It may be appropriate to consider Assured Shorthold Fixed Term Tenancies for this group.
- The number of Assured Shorthold Fixed Term Tenancies ended due to under-occupation will be reviewed as well as the known levels of under-occupation in three bedroom properties and larger. Area based information will be collected if available.
- Dwellings in rural areas may need to be given particular consideration as there are particular problems securing housing supply in the rural area.
- Single non-working households under 35 are only entitled to the Local Housing Allowance single room rate in the private rented sector and therefore demand for social rented accommodation has increased for this group.

The Council's Expectations of Registered Providers

- 4.10 If an Assured Shorthold Fixed Term Tenancy is issued, the Council expects that a full review will be undertaken by the Registered Provider at least six months prior to the end of the tenancy period, respecting that if the tenancy involves a vulnerable person there needs to be a sensitivity to the timing of the review and regard to the impact it may have on the tenant. It is accepted that more tenancies are likely to be renewed than ended as the majority of social housing tenants circumstances are unlikely to change considerably over time.
- 4.11 The following is what the Council will expect RPs to offer to tenants before they issue an Assured Shorthold Fixed Term Tenancy, during the tenancy, and prior to the end of an Assured Shorthold Fixed Term Tenancy:

Prior to tenancy

- Timely information and advice services to help people understand their housing options which should include, where appropriate, opportunities to move within and outside the social and affordable rent sectors e.g., into market rent or home ownership (including low cost).
- Clear criteria against which the decision to re-issue the tenancy at point of review will be made.

During tenancy

- Tenancy support, for example help with financial planning and money management advice.
- Referral to external support agencies where required.
- Periodic reviews to monitor any change in circumstances.

Prior to end of the Assured Shorthold Fixed Term period

- A clear and transparent review process which is understood by the tenant at the time of tenancy sign up.
 - Information sharing between RPs and the Council when the decision not to reissue a tenancy has been taken. This must be provided six months before the tenancy ends, so as to prevent homelessness.
 - To make tenants aware that advice agencies may be able to support tenants in the tenancy review process.
- 4.12 Towards the end of an Assured Shorthold Fixed Term Tenancy, there are a number of courses of action which RPs can take. These need to be fully explained to the tenant:
- To re-issue a new Assured Shorthold Fixed Term Tenancy; or
 - For the tenant to remain in the property but on new terms; or
 - To assist the tenant to find alternative (and more suitable) accommodation; or
 - Not offer any other form of tenancy.



4.13 There are a number of situations where it would not be generally appropriate to re-issue a further Assured Shorthold Fixed Term Tenancy. These include where:

- The property is adapted and no-one residing at the property requires the adaptations
- The property is under-occupied
- The property is over-crowded
- The financial circumstances of the tenant have changed to such an extent that other housing options would be more appropriate. Where a tenant's income has increased but they continue to meet the financial qualifying criteria for the Housing Register, income should not be a factor in determining whether a tenancy should be renewed.
- Breaches of tenancy or tenancy fraud are identified during the Assured Shorthold Fixed Term Tenancy review process.
- The tenant and/or their advocate do not engage in the Assured Shorthold Fixed Term Tenancy review process.
- The tenant comes into legal ownership of another home or property.
- The tenant's behaviour during the fixed term of the tenancy has been unacceptable to the extent that they would not be accepted onto the Council's housing register – for example sustained and documented anti-social behaviour.
- There is a strong need for the tenant to move to another location, for example to take up employment.

4.14 This list is not exhaustive, and there may be other circumstances where the re-issue of a tenancy would not be appropriate.



Advice and Options

- 4.15 Where an Assured Shorthold Fixed Term Tenancy is coming to an end and a notice has been served, the Council expects providers to ensure that tenants receive housing options advice, either provided directly or by the Council's Housing Options Team. This will ensure that they are aware of the different housing options available to them given their particular circumstances and can access appropriate support. It is best practice for RPs to be proactive in providing advice to tenants including money management.
- 4.16 Any decision to not renew an Assured Shorthold Fixed Term Tenancy should take full account of the likelihood of re-housing. If RPs are not transferring a tenant to another property within their own stock, then there should be full consultation with the Council's housing options team to ascertain whether suitable properties are available, what the likely re-housing time is, and any other relevant factors.

Special Consideration

- 4.17 Where RPs introduce Assured Shorthold Fixed Term Tenancies as a general practice there are some specific groups for which the type of tenancy they are granted will have more of an impact. For the following groups special consideration should be given and guidance is offered accordingly;
- **Families with children of school age or younger:** Security and stability during a child's education is critical. Families also rely on nearby friends and relatives to provide care for their children. If at the end of the term there are still children under the age of 19 in the household the tenancy should be renewed, unless the tenant is prepared to – or would prefer to – move to alternative suitable affordable housing within an area of their preference.
 - **Households with a disabled member or member with special needs:** Assured Shorthold Fixed Term Tenancies should be used where this will enable the best use of adapted and specially designed stock. In certain circumstances, where the applicant is on their own and has a lifelong condition, a longer-term tenancy may be appropriate. Where a household is likely to have only a short term need for an adapted or specially designed property, consideration could be given to providing a tenancy term that is shorter than five years. In all cases tenancies must be for a minimum of two years, at the end of which the review would take into account whether the household still has a need for the specific adaptation.

- **Households with adult children still living at home:**

Assured Shorthold Fixed Term Tenancies should be used where appropriate. Where a household has adult children living at home and is likely to have only a short term need for a property, consideration could be given to provide a tenancy term that is shorter than five years except where the son, daughter or dependent adult has an education health and care plan under the Special Educational Needs and Disability (SEND) Code of Practice where the tenancy term should not expire before their 25th birthday.

- **Older people over the age of 60:** There should be lifetime tenancies for older people living in sheltered housing (accommodation designated specifically for older people) and a minimum of a five year Assured Shorthold Fixed Term Tenancy for older people living in general needs accommodation. In deciding on the use of Assured Shorthold Fixed Term Tenancies for this household group, or for accommodation that is specific to older people e.g. sheltered housing, RPs should consider health and wellbeing, the role of friends and relatives in enabling independence, and the possibility that insecurity of tenure may add to someone's worries about their future.

Finding out more

If you would like further copies, a large-print copy or information about us and our services, please telephone or write to us at our address below.

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