



TENANCY STRATEGY

1. Introduction – Chairman of Housing & Health Panel.....	2
2. Glossary of Terms used in this Document	3
3. Summary – Key principles of our strategy.....	4
4. Changes Introduced by The Localism Act.....	5
5. How this Strategy has been developed.....	7
6. Objectives of this Strategy	7
7. Registered Providers operating in the Brentwood Borough	8
8. Affordable housing in the Brentwood Borough.....	9
9. Affordable Rents in the Brentwood Borough	10
10. Fixed term tenancies in the Brentwood Borough	12
11. Housing options advice.....	13
12. Maintaining and enhancing mobility.....	14
13. Disposals of homes owned by registered providers.....	15
14. Monitoring and Review	15
Appendix A: Tenure and rent changes introduced by the Localism Act.....	16
Appendix B – Draft housing options advice protocol	19

1. Introduction – Chairman of Housing & Health Panel

This is the Council's first Tenancy Strategy, a document we are required to produce by the Localism Act 2011.

It is intended to set out a framework which we hope registered providers of affordable housing will follow concerning the management of their existing housing in the Borough and the development of new housing.

This will ensure a consistent and transparent strategic approach particularly in regard to the new powers of affordable rent and fixed term tenancies.

This strategy supports and fits with other wider housing and planning policies of the Council, to achieve the Council's vision and priorities, and the objectives of our emerging Corporate Plan.

The strategy will also guide the policies of the emerging Local Plan in the provision of new affordable housing, and will supplement the Council's Local Investment Plan for affordable housing with the Homes & Communities Agency

This strategy was subject to a wide-ranging consultation before it was finally adopted in March 2013.



Cllr Jan Pound

Chairman of Brentwood Borough Council Housing & Health Panel

March 2013

2. Glossary of Terms used in this Document

- 2.1. **Assured Tenancies:** Tenancies which were introduced in 1988 for private sector and housing association tenants, replacing tenancies protected by the Rent Acts. Most housing association tenants, whose tenancies began after 15 January 1989, currently have Assured Tenancies. An Assured Tenancy grants a degree of security of tenure to the tenant.
- 2.2. **Assured Shorthold Tenancies (ASTs):** A tenancy initially set for a fixed term, such as six months, that can then roll on, either week-to-week or month-to-month, as a periodic tenancy. Assured Shorthold Tenancies lack security of tenure - except where the tenancy is within its fixed term, landlords seeking possession do not have to satisfy the court that any ground for possession exists. ASTs are the common form of tenure in the private rented sector. Housing associations have also been able to let on ASTs since 1989.
- 2.3. **Affordable Housing:** Housing provided to eligible households whose needs are not met by the market. It can include, social rented, affordable rented or intermediate housing. This definition (contained in the current National Planning Policy Framework) follows closely the definition of **Social Housing** contained within the Housing & Regeneration Act 2008, thus the terms Affordable Housing and Social Housing can be regarded as identical. The phrase Affordable Housing is used throughout this document, except when quoting a specific usage of the term Social Housing, such as the Regulatory Framework For Social Housing in England.
- 2.4. **Affordable Rented Housing:** Homes subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). This tenure has been introduced by the Localism Act, specifically to raise funds . More details are provided in Appendix A.
- 2.5. **The Council:** Brentwood Borough Council.
- 2.6. **Flexible Tenancies:** A specific types of fixed term tenancy that can be granted by local authority landlords as a result of the Localism Act. More details are provided in Appendix A.
- 2.7. **Homes & Communities Agency (HCA):** The Government appointed organisation with the responsibility for funding new affordable housing and regulating providers of affordable housing.
- 2.8. **Intermediate housing** is affordable housing for sale and/or rent provided at a cost above social rent, but below market levels. These can include shared equity, other low cost homes for sale and intermediate rent.
- 2.9. **Intermediate Rented Housing:** A form of intermediate housing for rent, provided at rents above social rent, but below market levels.
- 2.10. **Regulatory Framework For Social Housing in England (RFSHE):** The Guidance by which the HCA regulates registered providers. The RFSHE was substantially

revised in April 2012, following changes to regulation introduced by the Localism Act.

- 2.11. **Registered Provider (RP):** A landlord providing affordable housing that is registered with the Homes & Communities Agency. Normally a housing association or local authority.
 - 2.12. **Service charges:** Specific addition charges, typically for tenants and leaseholders in flat blocks, to cover additional charges incurred by the landlord. These might include cleaning of communal areas, or, in the case of leaseholders, repairs to communal areas or equipment.
 - 2.13. **Secure Tenancies:** Tenancies originally introduced by the Housing Act 1980, which conferred security of tenure for life upon all existing and new local authority tenants. Housing association tenants whose tenancies were granted before 15 January 1989 (generally through stock transfer from local authorities) may also remain secure tenants.
 - 2.14. **Social Housing:** See Affordable Housing above.
 - 2.15. **Social rented housing** is owned by local authorities and private registered providers, for which guideline rents (often known as “target rents”) are determined through a prescribed national rent regime. Social rents are significantly less than market rents – in the case of the Brentwood Borough, typically between 45% and 65% of market rents, excluding service charges.
 - 2.16. **Shared Equity:** A specific form of intermediate housing for low cost home ownership, typically provided through either:
 - **Shared Ownership** where the property is jointly owned between the landlord and the occupier. The occupier typically has full repair responsibilities, and pays the landlord a proportionate rent for the un-owned share;
 - **Shared Equity Loan** where the property is sold to the occupier at a value less than the market price, but the provider retains a share in the equity of the property proportionate to the reduction in value of the sale price. The equity share is normally held in the form of a second charge. The equity share becomes repayable at a future date, generally when the property is sold.
-

3. Summary – Key principles of our strategy

- 3.1. The Council’s expectation is that RPs with tenancies in the Brentwood Borough, or who wish develop in the Borough, will consider our strategy and discuss with us when they feel unable to meet it.
- 3.2. For households below, or just above the entry level point of market housing, the Council considers that housing costs are affordable if they do not exceed 25% of a household’s gross income.

- 3.3. The Council considers that rents are affordable to households in receipt of benefits if they are set at a level which does not exceed the Universal Credit cap which means that households would have to pay for their rent from their basic living allowance.
- 3.4. The Council supports the principle behind the Affordable Rent policy, but does not believe that affordable rents should exceed the Universal Credit award. We propose a “Universal Credit adjusted” maximum level of affordable rents.
- 3.5. We recognise that converting a proportion of existing stock to Affordable Rents is an important element in generating additional financial capacity for RPs to deliver more affordable housing, but that RPs share with us information which shows the number and type of social rent properties that are re-let annually as affordable rents.
- 3.6. We expect RPs to make their best efforts to use income generated from affordable rents to develop affordable housing in the Brentwood Borough which meet our housing needs.
- 3.7. The Council supports the principle of fixed term tenancies (except in sheltered housing and supported housing meeting long term needs), normally for a minimum five year period. We would expect fixed term tenancies to be renewed if there has been no significant change in circumstances. The only circumstances in which fixed term tenancies will not be renewed will be:
 - Increase in tenant’s financial circumstances, though this needs to be carefully considered, and alternative housing solutions need to be clearly available;
 - The property has become under-occupied;
 - The property was allocated to meet particular needs that are no longer present;
 - The terms of the tenancy have been breached.
- 3.8. The Council proposes standards and a protocol for a minimum level of housing options advice both at the start of a tenancy and at the end of a fixed term tenancy when it is not being renewed.
- 3.9. The Council will work with RPs to ensure that best use is made of the affordable housing stock in the Borough including managing overcrowding and under occupation, particularly through the forthcoming review of our Allocation Policy.
- 3.10. The Council wishes to working together with RPs in the Borough to explore opportunities to maximise alternatives to disposal of existing affordable housing and requests that RPs share details of the capital derived from disposals of properties in the Borough.
- 3.11. We believe that monitoring the tenancy strategy will be a critical part of understanding and evaluating the its impact. An annual meeting will be held with RPs to evaluate the monitoring information and amend the strategy as necessary.

4. Changes Introduced by The Localism Act

- 4.1. Changes to affordable housing tenure have been introduced by the Localism Act 2011. These changes are detailed more fully in Appendix A.

- 4.2. The effect of the changes is to create two new forms of fixed term tenancies:
- Flexible Tenancies for Local Authorities
 - Fixed Term Assured Shorthold Tenancies for Housing Associations
- 4.3. The changes also introduce a new rent model, Affordable Rent, for financing new social homes.
- 4.4. The new forms of tenure introduced by the Act only apply to new tenants. Existing social tenants retain their tenure rights.
- 4.5. These reforms mean that each local authority area could now include a range of different affordable housing tenancies, depending on the type of landlord offering them and whether they have chosen to use the new flexibilities on tenure and / or rent:

	Permanent Tenancy	Fixed Term Tenancy
Social Rent	Local authority – Secure Tenancy let at social rent	Local authority – Flexible Tenancy let at social rent
	Housing association – periodic Assured Tenancy let at social rent	Housing association – fixed-term Assured Shorthold Tenancy let at social rent
Affordable Rent <i>As part of agreement with HCA</i>	Local authority – Secure Tenancy let at affordable rent	Local authority – Flexible Tenancy let at affordable rent
	Housing association – periodic Assured Tenancy let at affordable rent	Housing association – fixed-term Assured Shorthold Tenancy let at affordable rent

Table 1: Range of affordable housing tenancies and rents

- 4.6. The Localism Act 2011 also requires Local Authorities to publish a tenancy strategy. The Act specifically sets out the scope of a tenancy strategy:

“A local housing authority in England must prepare and publish a strategy (a “tenancy strategy”) setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating 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.”*
-

5. How this Strategy has been developed

- 5.1. In 2011, the Council joined a partnership with ten other local authorities in Essex and Suffolk plus a number of housing associations that work within the broad geographical area. The ten other authorities were Babergh, Braintree, Chelmsford, Colchester, Ipswich, Maldon, Mid Suffolk, Suffolk Coastal, Tendring and Waveney.
- 5.2. Working together the authorities acknowledged that many significant strategic tenancy issues might be general to all localities and the objective was to seek to produce a common framework of key principles which all parties might endorse.
- 5.3. Coming together to develop the framework encouraged an open dialogue between housing associations and local authorities about the strategic impact of legislative changes to tenancies. It enabled the local authorities, spread over a wide market area, to consider common principles which reflected their ideas for balancing the housing needs of their local communities.
- 5.4. Brentwood did not sign up to the draft common framework document, as we felt that its application was more relevant to the Haven Gateway sub-region, where most of the other local authorities are based, but our involvement assisted us to gain a greater understanding of the issues through joint work with colleagues. The outcomes of the partnership are drawn upon in the development of this strategy document.
- 5.5. We acknowledge that this document has been developed and written some time after many RPs had to make critical business decisions about fixed term tenancies, affordable rents, conversions and disposals as part of their bid for grant under the 2011-15 HCA affordable homes programme. In recognition that some RPs have already produced their own landlord tenancy policies this document should be understood as a process rather than a static document.
- 5.6. This draft Strategy has been approved in draft form by the Council's Housing & Health Panel, and is intended to be subject to a wide-ranging consultation with RPs, tenants representatives, other local authorities and local statutory and voluntary partners. The results of the consultation will be considered by the Housing & Health Panel in early 2013, before the Strategy is finally adopted.
-

6. Objectives of this Strategy

- 6.1. The main objective of the strategy is to provide guidance that RPs, including the Council, will have regard to in developing their own policies, to ensure a consistent

and transparent strategic approach particularly in regard to affordable rent and fixed term tenancies. The document is also intended to:

- Support and fit with other wider housing and planning policies of the Council, to achieve the Council’s vision and priorities, and the objectives of its emerging Corporate Plan;
- Take account of the specific issues concerning affordability and sustainability of tenancies for households on low incomes that exists in the Brentwood Borough, and make the best use of social and affordable housing resources to most effectively meet housing need;
- Guide the policies of the emerging Local Plan in the provision of new affordable housing;
- Supplement the Council’s Local Investment Plan for affordable housing with the HCA.

6.2. The Council itself is also a registered provider of social housing (RP). Therefore this tenancy strategy also includes the policies for our own stock to respond to these flexibilities.

6.3. Our strategy has a number of themes and general principles, which are explored in the following sections.

7. Registered Providers operating in the Brentwood Borough

7.1. RPs are required in the Localism Act to “have regard to” our strategy in setting their own policies.

7.2. “To have regard to” is not defined in statute but the Council’s expectation is that RPs with tenancies in the Brentwood Borough or who wish develop in the Borough will:

- Consider the draft of our strategy during the consultation period and engage with us, particularly if they consider there are elements with which they do not or could not comply;
- Consider our Tenancy Strategy when they review their own policies;
- Openly discuss with the Council when they feel unable to meet our strategy objectives.

7.3. We acknowledge that other RPs in the Borough value their independence. A RP is answerable to its board of management, its tenants, its lenders and to the regulator, and it is likely that it wants flexibility in order to sustain its business.

8. Affordable housing in the Brentwood Borough

- 8.1. In line with Government legislation and guidance, the Council considers affordable housing to be provided at a cost that makes it available for eligible households whose needs are not met by the market.
- 8.2. For households below, or just above the entry level point of market housing, the Council considers that housing costs are affordable if they do not exceed 25% of a household's gross income. This principle is a widely accepted definition of affordability, that has been used in our Strategic Housing Market Assessment of 2011.
- 8.3. Initially Government plans are to carry forward the current provisions for help with housing costs into Universal Credit. However, the level of Universal Credit Housing award is significantly below "entry level" private sector rent in the Borough, particularly in larger properties. As a result, households will face major budgeting problems if the housing element of their Universal Credit does not accurately reflect their housing costs (Figure 1 refers).

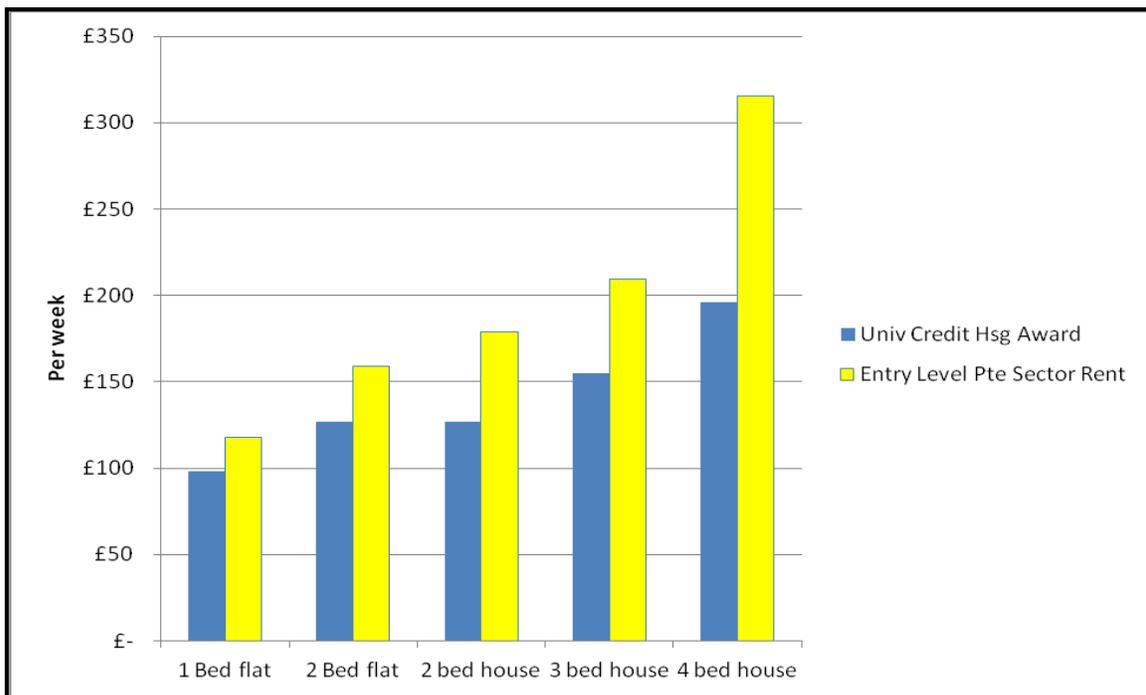


Figure 1: Comparison of Universal Credit Housing Award and Entry Level Private Sector Housing Weekly Rent

- 8.4. The Council considers that rents are affordable to households in receipt of benefits if they are set at a level which does not exceed the Universal Credit cap which means that households would have to pay for their rent from their basic living allowance.

- 8.5. The Council expects to be able to determine eligibility for affordable housing provided in the Borough, with regard to local incomes, local house prices and individual's housing needs.
- 8.6. We expect affordable housing to include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

9. Affordable Rents in the Brentwood Borough

- 9.1. The Council supports the principle behind the Affordable Rent policy, as long as the impact upon affordability is clearly understood.
- 9.2. The Council does not believe that affordable rents should exceed the Universal Credit award. This would conflict with the principle of affordability set out at paragraph 8.4 above.
- 9.3. Table 3 demonstrates that we estimate affordable rents set at 80% of market rents will be affordable for 1 and 2 bed flats in the Borough, but would be unaffordable for houses in the Borough by the Universal Credit definition of affordability.

Weekly Rental Equivalents	1 Bed flat	2 Bed flat	2 bed house	3 bed house	4 bed house
Entry Level Market Rent	£ 118	£ 159	£ 179	£ 210	£ 315
80% of Entry Level Market Rent	£ 94	£ 127	£ 143	£ 168	£ 252
Universal Credit Hsg Award	£ 98	£ 127	£ 127	£ 155	£ 196
Universal Credit Hsg Award as % of Market rent	83%	80%	71%	74%	62%

Table 2: Universal Credit Housing award as % of entry level market rent

- 9.4. Consequently, we propose a "Universal Credit adjusted" maximum level of affordable rents as demonstrated in Table 4, being 80% market rent or Universal Credit Housing Award, whichever is the lower. Until such time as the Universal Credit Housing award is finalised, we shall use the existing Local Housing Allowance.

Weekly Rental Equivalents	1 Bed flat	2 Bed flat	2 bed house	3 bed house	4 bed house
Entry Level Market Rent	£ 118	£ 159	£ 179	£ 210	£ 315
UC Adjusted Affordable Rent	£ 94	£ 127	£ 127	£ 155	£ 196
UC Adjusted Affordable Rent as % of Market rent	80%	80%	71%	74%	62%

Table 3: Universal Credit Adjusted Affordable Rent

- 9.5. The indicative impact of this proposed rent policy on income levels required to access tenures within the Borough (based on the 25% of gross income principle in paragraph 8.2) is demonstrated in Figure 2 below.
- 9.6. Our calculations are that the UC adjusted Affordable Rent make the dwellings affordable to occupants if they become reliant of benefit, but in the case of two and three bedroom houses achieve between 70% to 75% of the anticipated extra yield over social rents, to finance new development.
- 9.7. Registered Providers have the flexibility to let new properties and convert a proportion of vacant Social Rent properties to Affordable Rents at re-let, subject to their agreement with the HCA.

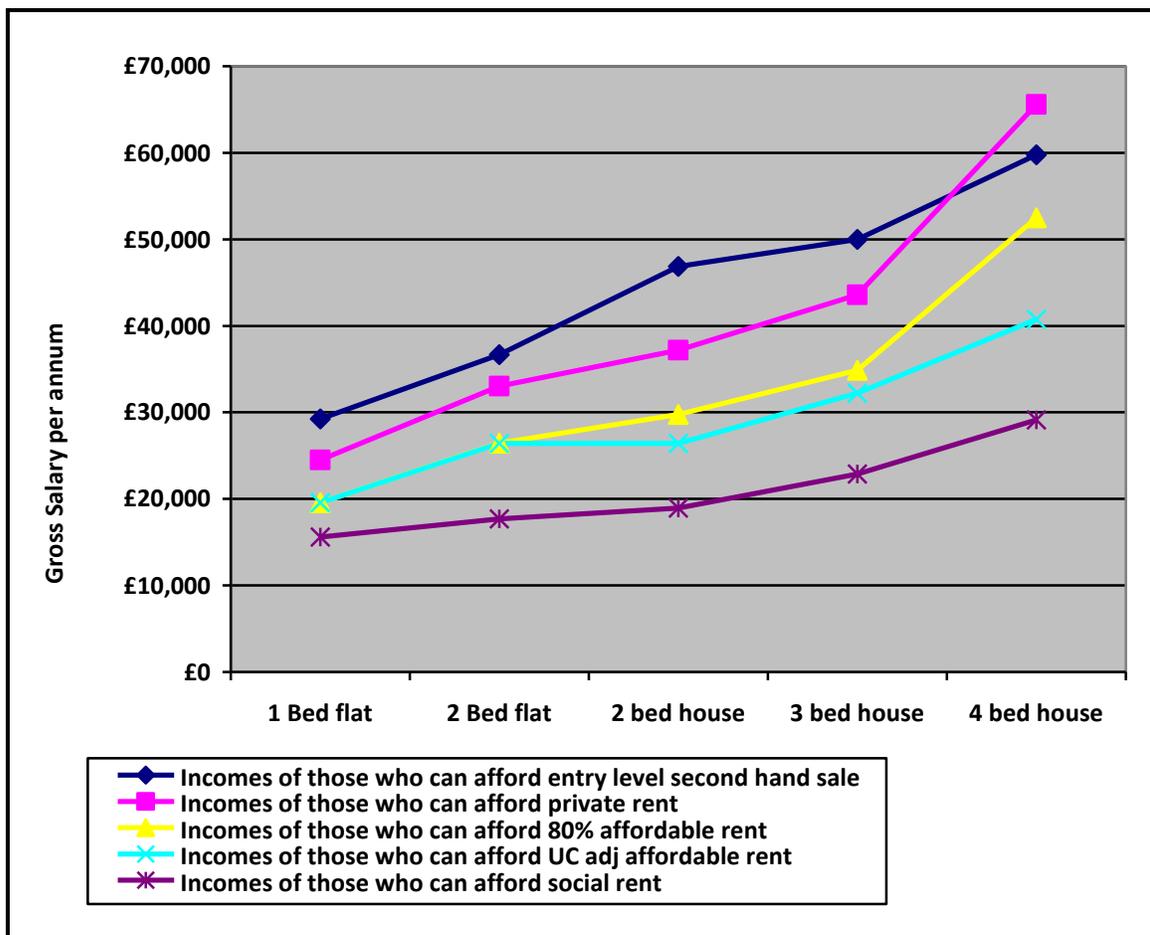


Figure 2: Income Required To Access Tenure

- 9.8. We recognise that converting a proportion of existing stock to Affordable Rents is an important element in generating additional financial capacity for RPs to deliver more affordable housing.
- 9.9. We request that:

- RPs share with us information which shows the number and type of social rent properties that are re-let annually as affordable rents as part of the annual review of this strategy
 - RPs and the HCA have due regard to our evidence and understanding of affordability issues when deciding the level of affordable rent to be sought on converted properties
- 9.10. The Council expects RPs to make their best efforts to use income generated from affordable rents to develop affordable in the Brentwood Borough which meet our housing needs, and we will monitor this as part of the annual review of the strategy.

10. Fixed term tenancies in the Brentwood Borough

- 10.1. The Council supports the principle of fixed term tenancies. Our affordable housing resources are a precious asset for which demand far exceeds supply. If the circumstances of a household is such that they no longer require affordable housing, or no longer require the particular size accommodation in which they are living, it is appropriate that we assist them to meet their needs elsewhere.
- 10.2. However, in respect of special needs housing meeting long-term needs, the Council considers that fixed term tenancies are generally unnecessary:
- Sheltered housing will normally continue to be let on secure or assured tenancies;
 - If supported housing is intended to meet the long term needs of the tenant then the tenancies will normally continue to be let on secure or assured tenancies.
- 10.3. The Council believes that where a RP is using flexible tenancies and offers an introductory tenancy a minimum five year fixed tenancy will normally follow if the terms of the tenancy have been satisfactorily met. If RPs intend to use the exceptional circumstances principle where they may offer a tenancy of between two and five years, the Council would expect the circumstances to be shared with us.
- 10.4. The Council would expect fixed term tenancies to be renewed if there has been no significant change in circumstances. This general principle benefits all parties: tenants are able to remain in their homes and maintain their social networks in that area and RPs do not have an unnecessary turnover in their stock with the associated administrative burden and empty property.
- 10.5. The Council requests that all RPs share with us their policies in which fixed-term tenancies will not be renewed. The Council acknowledges that circumstances in which fixed term tenancies will not be renewed may include:
- Increase in tenant's financial circumstances.
 - The property has become under-occupied.
 - The property is overcrowded and the household requires a larger one.
 - The property was allocated to meet particular needs that are no longer present e.g. the need for a single storey dwelling because a member of the original household had a disability but now no longer lives there.

- The terms of the tenancy have been breached i.e. neglect of property, rent arrears.
- 10.6. In respect of the increase in a tenant's financial circumstances, the Council is mindful of the ongoing consultation by the Government which is considering increasing social rented tenants rents to market rents if they have sufficient means to pay¹. The Council expects any increase to be significant and long-term for the foreseeable future, sufficient to enable the tenants to find housing solutions within the Borough, either through the open market (including the cost of deposits for home ownership) or through specific affordable housing low cost home ownership solutions. The Council will seek wherever possible to target opportunities for affordable housing home ownership solutions to existing affordable housing rented tenants who are able to afford them.
 - 10.7. The Council is considering the introduction of a responsible neighbour initiative. We hope that RPs will use the non-renewal of fixed term tenancies In respect of breaches of the terms of the tenancy which have caused neighbour nuisance in support of the initiative in appropriate circumstances.
 - 10.8. RPs should grant people who were social housing tenants on the day on which the legislation creating fixed term tenancies came into force, and who have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord, if the circumstances requiring the move are outside of the person's control Similarly Registered providers should grant tenants who have been moved into alternative accommodation during any redevelopment or other works a tenancy with no less security of tenure on their return to settled accommodation
-

11. Housing options advice

- 11.1. Households will require sufficient information for them to assess at different stages of their housing pathway what is the best choice for them in their current circumstances and the implications of exercising that choice. It will also be necessary to make arrangements for advocacy to be available when a tenant requires representation in appealing a decision which terminates their tenancy.
- 11.2. The Council proposes standards for a minimum level of housing options advice are included within this strategy and are delivered through a joint protocol. This includes at the start of a tenancy and at the end of a fixed term tenancy when it is not being renewed.
- 11.3. The provision of adequate housing options advice also clearly links to the Council's homelessness prevention strategy and its statutory homelessness duties. The Homelessness Prevention Strategy is currently being refreshed.
- 11.4. At the tenancy sign up stage RPs already provide information, advice and support for their new tenants. An additional element will be the requirement to provide

¹ *High Income Social Tenants - Pay To Stay – Consultation (June 2012)*

information about the fixed length of the tenancy and highlight to any households moving from assured or secure tenancies the implications of this move.

- 11.5. The need for housing options advice at the renewal of a fixed term tenancy is a new requirement and could be provided or procured by RPs, for example through a service level agreement from the local Citizen Advice Bureau.
 - 11.6. Establishing a clear protocol for providing housing options advice to tenants, at the point at which their fixed tenancy is not renewed, will achieve clarity for tenants and also for other housing and housing related service providers within the area. It will minimise the scope for the ending of a fixed term tenancy to become a contested area between organisations with different policies and priorities.
 - 11.7. Proposals for a draft protocol for the provision of housing options advice is attached at Appendix B.
-

12. Maintaining and enhancing mobility

- 12.1. The Council wants work with RPs to ensure that best use is made of the affordable housing stock in the Borough including managing overcrowding and under occupation. We want to manage the impact of Affordable Rents and fixed tenancies so that there are not any unintended consequences that impede mobility and reduce effective use of the stock.
 - 12.2. The Council is currently reviewing its Allocation Policy and we will seek to ensure that the revised policy supports and is consistent with this Tenancy Strategy.
 - 12.3. The Allocations Policy will also need to be consistent with the housing options advice that will be necessary to ensure that households are aware of the tenancy implications of making a decision to move – which in some circumstances may involve moving from a secure tenancy to a fixed tenancy or a Social Rent to an Affordable Rent, or both.
 - 12.4. We want to ensure that barriers to downsizing are removed to enable households to move to smaller properties that meet their aspirations, whilst also ensuring that they are fully aware of any changes to their security of tenure. However, to ensure that households are given as much encouragement and incentive to move as possible additional flexibility may be required to offer 'like for like' tenancies.
 - 12.5. Households that are overcrowded and are moving to larger properties are likely to be offered fixed term tenancies, particularly households moving to four bedroom and larger three bed houses. Using fixed term tenancies will ensure that when a household no longer needs a larger property it may be re-let to a larger household in need.
 - 12.6. There is a high demand for adapted properties. We acknowledge that this is an area where more flexibility may be required because of the often complex needs of the household.
-

13. Disposals of homes owned by registered providers

13.1. The Council has two concerns about the disposal of RP properties:

- Which properties are disposed of;
- Where the income from the properties is reinvested.

13.2. The Council wishes to working together with RPs in the Borough to explore opportunities to maximise alternatives to disposal or potential joint redevelopments to meet both housing needs and RP development programmes

13.3. The Council requests that RPs talk to us at the earliest possible stage about which properties they are proposing to dispose of prior to any decision being made. We may wish to:

- Seek to influence choices about which properties will be disposed of;
- Discuss alternative options;
- Acquire / enable others to acquire the properties to meet housing need.

13.4. The Council wants to work together with RPs to address viability issues, poor property conditions, emerging need and management issues on potential disposals.

13.5. The Council requests that RPs share details of the capital derived from disposals of properties in the Borough. We understand that RPs may make strategic business decisions about the disposal of affordable housing units. We consider it essential to have transparency about the use of this capital with the Council, and will use our best efforts to ensure the capital is recycled within the Borough for the provision of affordable housing.

14. Monitoring and Review

14.1. The Council believes that monitoring the tenancy strategy will be a critical part of understanding and evaluating the impact of tenancy changes and will provide the necessary intelligence to review and revise policies.

14.2. We propose that data will be collected for each financial year and an annual meeting will be held with RPs to evaluate the monitoring information and amend the strategy as necessary.

Appendix A: Tenure and rent changes introduced by the Localism Act

Changes to tenure have been introduced by the Localism Act 2011. The effect of the changes is to create two new forms of fixed term tenancies:

- Flexible Tenancies for Local Authorities
- Fixed Term Assured Shorthold Tenancies for Housing Associations

The changes also introduce a new rent model, Affordable Rent, for financing new social homes.

These changes are detailed more fully below.

Flexible Tenancies:

- The Localism Act introduces a new form of local authority secure tenancy: the Flexible Tenancy.
- This form of tenure can be used from 1 April 2012 for new tenants, provided the local housing authority has adopted a Tenancy Strategy or interim policies that allow for it. However, local housing authorities can decide whether to use them or not.
- Flexible Tenancies are fixed-term tenancies with a statutory minimum fixed term of two years, although the RFSHE requires providers generally to grant general needs tenants a tenancy for a minimum fixed term of five years, in addition to any probationary tenancy period.
- The tenant has the right to request a review of the decision as to the length of the fixed term, but only on the basis that it does not accord with the landlord's own policy.
- Generally, tenants with a Flexible Tenancy will have the same rights as other secure tenants, including the Right to Buy and the Right to Repair. The statutory Right to Improve will not apply (although the tenancy agreement can determine whether the tenant has the right to improve their home) and there is no statutory right for tenants to be compensated for improvements.
- During the fixed term, possession will be available on normal Secure Tenancy grounds as long as there is a valid forfeiture clause in the tenancy permitting this.
- A tenant may give four weeks' notice in writing to end a Flexible Tenancy during the fixed term.
- Whether the tenant will be able to remain in affordable housing at the end of the fixed term will depend on the landlord's Tenancy Policy. The procedure for local authorities who decide not to grant another tenancy at the end of the fixed term is set out in the Localism Act.
- If the landlord does not intend to renew the tenancy it must give at least six months' notice of this fact as well as two months' notice seeking possession.

- The tenant has a right to request a review of a decision not to renew. A court can only refuse possession if the correct procedure has not been followed by the landlord or if the court is satisfied that the decision not to grant another tenancy was otherwise 'wrong in law'. This is likely to attract defences under Article 8 of the ECHR and the Equality Act 2010.
- If no further fixed term is granted but no notice of non-renewal is given, the tenancy becomes a periodic Secure Tenancy.

Fixed-term Assured Shorthold Tenancies:

- Housing associations do not need a new type of tenancy to grant fixed-term tenancies. They can already grant fixed-term Assured Shorthold Tenancies.
- However, a change to the RFSHE from April 2012 now allows them to grant such tenancies for general needs housing let at a social rent.
- The previous RFSHE required that social landlords 'offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'
- However, the new RFSHE requires providers to 'grant tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of the housing stock'.
- As with Flexible Tenancies, the RFSHE requires providers to grant general needs tenants a tenancy for a minimum fixed term of five years, or exceptionally, a tenancy for a minimum fixed term of no less than two years, in addition to any probationary tenancy period.
- Also as with Flexible Tenancies, whether the tenant will be able to remain in affordable housing at the end of the fixed term will depend on the landlord's tenancy policy. The procedure for housing associations who decide not to grant another tenancy at the end of the fixed term is set out in the Localism Act. If the landlord does not intend to renew the tenancy it must give at least six months' notice of this fact as well as a valid section 21 notice.
- The tenant has no statutory right to request a review of a decision not to renew. However, the RFSHE requires registered providers set out 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.
- Where another tenancy is not being offered, there is also a requirement that the provider offers reasonable advice and assistance.

Affordable Rent:

- Affordable Rent is the new model for financing new social homes in the Homes and Communities Agency's Affordable Homes Programme 2011–2015.

- Homes let on Affordable Rent are a form of affordable housing. Registered providers are only able to let properties at an Affordable Rent as part of an agreement with the HCA.
- Some contracts may be based on the conversion of a proportion of existing re-lets to Affordable Rent. Affordable Rents can be set at up to 80 per cent of market rates.
- Providers can let Affordable Rent homes on a range on different tenures, from a Secure or fully Assured Tenancy, to a regulatory minimum five-year fixed-term (Flexible or Assured Shorthold) tenancy. In unspecified exceptional circumstances, the statutory minimum two-year fixed term can be used.

Appendix B – Draft housing options advice protocol

RP's Responsibilities

- Provide or procure a full housing options service covering private renting, and low cost home ownership to help tenants resolve their own housing needs. This will include up-to-date and in-depth advice on housing options and how to pay for them.
- Ensure that tenants have six months notice that their fixed tenancy will not be renewed and start the housing options advice at this early stage.
- Not to discriminate on the grounds of race, gender, ethnic origin, disability, age or sexual orientation.
- Make it clear what you are able to do and what you cannot do and refer tenants (with their consent) to specialist agencies for debt advice, legal advice and benefits advice as appropriate. Provide personalised referrals to other organisations if unable to help
- Advise in clear and easy to understand language and ensure any information meets 'Plain English' standards and provide relevant leaflets, and/or written information, and clear information about on-line resources
- Provide a named person to work with and provide advice to the tenant. Respond fully and promptly to ongoing tenant requests for advice and information.
- Arrange home visit/s if the tenant is unable to attend your office, and make appropriate flexibility to enable working tenants to attend appointments.
- Provide clear information on complaints policy if the tenant is unhappy with the service they have received
- Ensure tenants are aware of a clear, defined and robust appeals procedure.

Tenant responsibilities

- Attend appointments on time or give notice if unable to attend
- Provide relevant information as soon as possible to help speed up the process of giving advice and assistance
- Provide any relevant changes of circumstances