



Title	Warwickshire Tenancy Strategy
For further information about this report please contact	Satnam Kaur – 456 422 Lydia Wailoo – 456 335
Wards of the District directly affected	All
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No
Date and meeting when issue was last considered and relevant minute number	
Background Papers	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes 455
Equality & Sustainability Impact Assessment Undertaken	

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive		Bill Hunt
Head of Service		Jameel Malik
CMT		Chris Elliott
Section 151 Officer		Mike Snow
Monitoring Officer		Andrew Jones
Finance		Mike Snow
Portfolio Holder(s)		Councillor Vincett
Consultation & Community Engagement		
Registered Providers; Stakeholders – 9 th November		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 This report presents the tenancy strategy which is a statutory requirement for Local Authorities under the Localism Act 2011.

2 **RECOMMENDATION**

- 2.1 To approve the Warwickshire Tenancy Strategy (see appendix 1)

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 Executive are requested to approve the Warwickshire Tenancy Strategy in order to ensure that the Council complies with its statutory requirement.

4. **POLICY FRAMEWORK**

- 4.1 The strategy contributes directly to Fit for the Future and the vision and objectives of the Sustainable Community Strategy.

5. **BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary implications.

6. **ALTERNATIVE OPTION(S) CONSIDERED**

- 6.1 Executive could refuse to approve the strategy however it would mean the Council will be in breach of its statutory duty under the Localism Act and could be open to legal challenge.

7. **BACKGROUND**

- 7.1 The Localism Act 2011 introduces a number of provisions in relation to social and affordable housing. In particular, the introduction of a new type of tenancy, the fixed term tenancy, which can be used as an alternative to secure, lifetime tenancies.
- 7.2 The Act places a duty on all Local Authorities to have a Tenancy Strategy in place by January 2013, which sets out high level objectives for Registered Providers within Warwickshire to have regard to when they produce their own tenancy policies outlining their approach to awarding new tenancies.
- 7.3 This Tenancy Strategy has been produced by all the Local Housing Authorities in Warwickshire with the exception of Stratford-upon-Avon District Council (SDC), to ensure a consistent approach to awarding tenancies types across the County.
- 7.4 SDC decided to opt out of the County wide strategy as they were seeking to have a strategy in place prior to January 2013. When the strategy is renewed it is SDC's intention to be part of the county wide strategy.
- 7.5 The Council, in its role as landlord will need to have regard to the Tenancy Strategy when agreeing its Tenancy Policy.

- 7.6 The Localism Act 2011 introduces new freedoms to Registered Providers (formerly housing associations and now including stock holding Local Authorities) in relation to the type of tenancies they grant and for how long.
- 7.7 Previously the majority of tenancies granted have been secure, or lifetime tenancies meaning households can remain in the properties unless they breach the terms of the tenancy agreement.
- 7.8 The Localism Act has introduced flexible or fixed term tenancies to allow providers to make best use of their housing stock. However, the use of fixed term tenancies also needs to be balanced to ensure communities are sustainable, vulnerable tenants are not discriminated against and tenants are given appropriate length tenancies to ensure they can live positively in their communities.
- 7.9 Local Authorities are required to publish a Tenancy Strategy as detailed under section 50 (1) – (8) of the Act to which Registered Providers must have regard to when issuing lifetime or fixed term tenancies. The broad principles of the strategy are:
- Fixed term tenancies for general needs tenants is five years, plus any introductory/probationary period
 - A longer fixed term should be considered for vulnerable tenants with lifetime tenancies for those tenants where their vulnerability is unlikely to change
 - Tenants of sheltered housing or extra care housing should be offered lifetime tenancies
 - Appropriate advice should be given to all tenants regarding the implication of a fixed term tenancy prior to entering into the agreement
 - Registered Providers shall develop their services to support tenants to maintain their tenancies and prevent unnecessary evictions.
- 7.10 At the end of a fixed term tenancy and in order to prevent an increase in households presenting to the local authority as homeless, registered providers must decide whether they will grant a new tenancy or not. All providers will therefore need to have processes in place to ensure the timely review of tenancies and are required to have a Tenancy Policy, (which has regard to the Tenancy Strategy) which must set out clear information to prospective tenants on the following issues;
- Type of tenancy to be issued
 - Reasons for issuing such a tenancy
 - Grounds upon which a tenant may appeal the prospective landlord's decision
 - Circumstances where a fixed term tenancy will be issued, the length of the term and the criteria used for review at the end of the fixed term.
- 7.11 The Strategy does not affect existing tenants, unless they choose to move to another Registered Provider home.

7.12 The Strategy will be reviewed on an annual basis and consultation will take place before any amendments are made. The first review will be in January 2014

7.13 The Strategy will be monitored on a quarterly basis following engagement with Registered Providers.

Joint Tenancy Strategy

North Warwickshire Borough Council
 Nuneaton & Bedworth Borough Council
 Rugby Borough Council
 Warwick District Council



Version:	Version Number 3
Release date:	1 st November
Next Review date:	14 th December 2012
Document type:	Strategy
Approved by:	Warwickshire Heads of Housing Group
EIA Completed (where required):	
Consultation with Registered Providers	To be completed by:

1. Introduction

1.1 This is a joint strategy of North Warwickshire Borough Council, Warwick District Council, Nuneaton and Bedworth Borough Council and Rugby Borough Council

The strategy has been developed in response to:

- The requirements of the Localism Act 2011 – Section 150 (1) to (8);
- The associated new freedoms that the Act gives councils for determining how local housing needs are best met, particularly in terms of fixed term tenancies and affordable rents;
- The New Regulatory Framework for Social Housing in England from April 2012 issued by the Homes and Communities Agency.

1.2 The Act sets out the issues, administration procedures and time frames to be followed by councils when developing their Tenancy Strategies. The strategy will commence from January 2013.

1.3 The Act requires that Registered Providers¹ of affordable housing must “*have regard*” to the local Tenancy Strategy, when formulating their policies relating to the:

- Type and length of tenancies that they grant;
- Circumstances in which they will grant a tenancy of a particular type;
- Circumstances in which they will grant a further tenancy at the end of an existing tenancy.

1.4 As Registered Providers stockholding councils must also have regard to the Tenancy Strategy in exercising their housing management function.

1.5 This strategy fulfils the above requirements and also sets out clear expectations for social housing providers with housing stock in the areas of the Councils which are signatories to the Strategy.

¹ Throughout this strategy the term “private registered provider” refers to housing associations only whereas “registered provider” includes the landlord councils as well as the housing associations.

2. Strategic Objective of the Tenancy Strategy

- 2.1 The purpose of this strategy is to indicate how the signatory district Councils expect the new freedoms, introduced by the Localism Act, to be used in a strategic way to make the best use of affordable housing stock across the district and boroughs.
- 2.2 The aims that Registered Providers are expected to support through the use of social housing tenancies in the designated areas are:
- To help local households to meet their current and future housing needs;
 - To make the best use of social housing stock by promoting social mobility, financial inclusion and the reduction of under occupation and overcrowding;
 - To invest in Warwickshire and provide affordable housing, as well as the associated economic benefits;
 - To create, encourage and maintain sustainable communities and protect vulnerable households;
 - To ensure appropriate use of tenancies and tenancy options;
 - *To support and incentivise employment and training opportunities for existing and prospective tenants.*

3. Administration of Tenancies

3.1 Use of tenancies and their duration

- 3.11 Councils and Private Registered Providers already have the power to offer a wide range of tenancy types, which have been used to good effect over the years. Up until now the majority of tenancies offered have been longer term tenancies, or in the case of councils, secure ones for life. The exceptions to these longer term tenancies have been probationary or demoted tenancies, normally fixed for a year.
- 3.12 The Localism Act and the Regulatory Framework for Social Housing in England introduce provisions enabling registered providers to offer new forms of flexible tenancy, referred to as a "Fixed Term Tenancy". These tenancies can be:
- Issued for fixed terms, based on a set of fixed circumstances;
 - Renewed or terminated at the close of the term.
- 3.13 Fixed Term Tenancies do have the potential to allow registered providers to make the best use of their housing stock. However, the use of Fixed Term Tenancies needs to be considered very carefully in order to ensure that:
- Communities are sustainable;
 - There is no discrimination against vulnerable tenants or prospective tenants;
 - Tenants are provided with an appropriate type and length of tenancy, giving them the protection and stability that they need to live positively within their local community.
- 3.14 Registered Providers in the designated areas are expected to adopt a pragmatic and local approach to the use of lifetime and Fixed term tenancies.
- 3.15 In developing their local policies Private Registered Providers are expected to have regard to the following broad principles:

- The regulations state that fixed term tenancies for general needs tenants must be offered for a minimum of five years plus any introductory/probationary or starter period. Exceptionally a tenancy for a minimum fixed term of no less than two years can be offered.
- A longer minimum fixed term should be considered for vulnerable tenants that may benefit from an additional period of stability, for example, tenants with a disability, or for very vulnerable tenants where there is a prospect of the circumstances that make them vulnerable changing and so being worthy of review. However lifetime tenancies should be the presumed tenancy for very vulnerable tenants where the cause of vulnerability is unlikely to change.
- Tenants in sheltered housing or Extra Care Housing should be offered lifetime tenancies.
- All prospective tenants should be advised of the implications of entering into a fixed term tenancy arrangement prior to the signing of the tenancy agreement. This will allow them to make an informed choice as to whether this is appropriate for their needs.
- Registered Providers shall develop and provide services that will support tenants to maintain their tenancy and prevent unnecessary evictions.

3.16 'The Regulatory Framework for Social Housing in England' states that Registered Housing Providers are expected to have policies in place that will provide clear information to prospective tenants covering, among other things, the:

- Type of tenancy to be issued;
- Reasons for issuing such a tenancy;
- Grounds upon which a tenant may appeal the prospective landlord's decision;
- Circumstances where a Fixed Term Tenancy will be issued, the length of the term and the criteria used for review at the end of the fixed term period.

3.17 There are 40 different Private Registered Housing Providers with housing in some or all of the four council areas and each have their own policy plus 4 Local Authorities who have their own stock. It is not practical to summarise all of the tenancy policies here. We expect the policies to be readily available and certainly on the website of the individual provider. Website addresses for those Private Registered Providers with a significant number of properties in any particular district are included at the end of this document.

3.2 Fixed Term Tenancy – Review, Renewal and Termination

3.2 The Regulatory Framework requires Registered Providers to have a policy on appeals against the type and length of any tenancy offered to a tenant. We consider that these are matters for individual landlords to decide upon.

3.21 When a fixed term tenancy is coming to an end the landlord has to decide whether to grant the tenant a new tenancy. This means that all landlords need to have a process for reviewing their fixed term tenancies.

3.22 Review processes should give due regard to the need to have sustainable communities which include a range of households with mixed income levels. Consequently this Strategy does not set any specific household criteria within the tenancy review processes. Each household should be assessed with a view to having a full understanding of their circumstances. If it is decided that the

fixed term tenancy will be ended they should be advised about the range of housing options that are available to them. Advice and assistance should be offered to tenants about finding alternative accommodation. Help should be offered so that they can choose the solution most appropriate to them, including stair casing into home ownership products if this is affordable and an expressed desire of the household.

- 3.23 This Strategy presumes that a tenancy will be extended unless the household's income has changed substantially or the size or needs of the household are such that the property is no longer suitable to continue to be occupied by that household (overcrowding or under occupation). It is expected that Welfare Reform changes should be taken account – including the under occupation charge. It is not expected that reviews will be routinely used as an alternative to using the legal remedies and proceedings that are available for the management of tenancies.
- 3.24 If the landlord decides that it *will* renew the tenancy it must decide whether to do this for a further fixed term or whether to offer a new lifetime tenancy. We consider that the principles set out in section 3.1 above are applicable to this decision in the same way as they were applied to the original tenancy.
- 3.25 If a Registered Housing Provider decides that a Fixed Term Tenancy has to come to an end the conditions set out in the regulations and legislation must be met.
- 3.26 If a Local Authority landlord decides not to renew a flexible tenancy it has a legal obligation to give the tenant at least six months written notice and the tenant has a right to request a review of the decision. The notice has to advise the tenant of the reasons for the decision, of the right to request a review, and of any time limit for such a request. For Private Registered Providers the regulatory requirements are more limited but they also have to give notice to the tenant of their decision and must have a process for tenants to ask for a review appeal against a decision not to renew the tenancy.
- 3.27 It is our expectation that all Private Registered Housing Providers operating in the area covered by this Strategy should issue a decision to the tenant of a Fixed Term Tenancy at least six months written notice. This ensures consistency for all social housing tenants and allows sufficient time for landlords and advice services to work with tenants to find alternative accommodation when necessary.
- 3.28 As part of the advice and assistance to the tenant there is an expectation that the landlord will provide signposting to the local housing options team if appropriate. Nonetheless landlords should have officers available to provide clear advice and assistance about housing options to all tenants served with a notice to end their flexible tenancy.

3.3 Review

- 3.31 The legislation gives tenants the right to a review if their fixed term tenancy is not to be renewed. It is for each Registered Provider to set out their review arrangements however there is an expectation that they are referred to in Tenancy Policies and tenants are made aware of them.

3.4 Existing Tenants

- 3.41 Under the new regulatory framework people who were social housing tenants on 1st April 2012 and have remained social housing tenants ever since are to be given a tenancy with no less security if they choose to move to another social rented home, even if this is with another social landlord.
- 3.42 The only exception to this is where the existing tenant chooses to move to a home to be let on Affordable Rent terms (see Section 4 below). In this case it will be important that the tenant has all the information needed to make an informed decision on the rights that they would be giving up to facilitate this move.

4 Administration of Affordable Rents

4.1 Affordable Rents

- 4.1 The new regulatory framework permits the use of "Affordable Rents" that are set at up to a maximum of 80% of the local private rented market level for social housing tenants (in accordance with the Homes and Communities Agency – Affordable Homes Programme 2011-15).
- 4.12 The use of Affordable Rents is a factor in the funding of new social housing, especially the homes that are and will be being delivered under the Affordable Homes Programme. However, householders within the designated area can have low incomes and we encourage Private Registered Providers to take this into account along with the results of any relevant Strategic Housing Market Assessments in order to take a reasonable view when determining when and how affordable rents (new build and conversions) should be used.
- 4.13 Prospective tenants will need an opportunity to discuss and fully evaluate whether a tenancy at an Affordable Rent level is a sustainable housing option for them.
- 4.14 In the Warwick District, it is expected that wherever possible affordable rent levels will not exceed 60% of the open market.

4.2 Affordable Rent Conversions

- 4.2 We recognise that the conversion of a proportion of existing stock to Affordable Rent plays a part in the funding of the Affordable Homes Programme. Nevertheless we have a legitimate interest in this where we have in the past supported bids for grant funding for a scheme because there was a need in the locality for housing for social rent. We want to ensure that all conversions are suitable and that the impact of proposed conversions has been taken into account, for example, but not exclusively, in determining any potential impact on the local housing market.
- 4.21 We would therefore encourage Private Registered Providers to involve the relevant Local Authority at an early stage in discussions about planned stock conversions and to provide it with details regarding the property type, location and proposed rent level prior to conversions being implemented.

- 4.22 We would ask that the following issues be considered when identifying properties for conversion:
- The sustainability of local communities;
 - That Affordable Rents should be genuinely affordable for local tenants;
 - That housing estates should continue to contain households with a mix of incomes.
- 4.23 Consideration should also be given to de-converting Affordable Rents in tenancies where tenants are struggling to meet rent levels on affordability grounds.

4.3 Section 106 agreements

- 4.3 Where rents are constrained by an existing section 106 agreement, private registered providers are reminded that it must be adhered to or that they must apply for a variation, at their own cost, through the planning process. Every case will be treated on its merits by the relevant local authority so there can be no guarantee that requests for such conversions will be successful.

5 Monitoring and Review of this Tenancy Strategy

- 5.1 The Strategy will be reviewed on an annual basis and will consult on any proposed amendments before producing a revised strategy. The first review will take place in January 2014.
- 5.2 Input from Registered Providers will be invaluable to these reviews and we welcome comments on how the strategy is working at any time, not just during the formal consultation. To help us to review the strategy we will need data from Registered Providers annually broken down by Local Authority area in relation to:
- The total number of tenancies issued;
 - The number of flexible tenancies issued, broken down by length of term if terms other than five years have been used;
 - The number of flexible reviewed and the outcome of the review, including the reasons for any decisions not to renew the tenancy;
 - The number of Affordable Rents implemented (through new build and conversion) and the level of Affordable Rents;
 - Where it is collected, the profile of tenants who have accepted Affordable Rent Tenancies, in terms of some or all of the protected characteristics set out in the Equalities Act 2010.
- 5.3 We will analyse this data and provide a summary for private registered providers; in doing so we will respect the confidentiality of any business sensitive information.

6 Contact details

- 6.1 The Strategy will be published on the websites of the Signatory Local Authorities and those of their Registered Housing Provider partners.

Local Authorities

North Warwickshire Borough Council:

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Rugby Borough Council

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Warwick District Council

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Private Registered Providers

Affinity Sutton - www.affinitysutton.com

Anchor Housing - www.anchor.org.uk

Ashram Housing Association - www.ashramha.org.uk

Asra Housing - www.asra.org.uk

Bromford Group - www.bromfordgroup.co.uk

Derwent Living - www.derwentliving.com

Friendship Care & Housing - www.longhurst-group.org.uk

Guinness Hermitage - www.guinnesshermitage.com

Housing 21 - www.housing21.co.uk

Jephson Housing - www.jephson.org.uk

Mercian Housing Association – www.mercian.org.uk

Midland Heart – www.midlandheart.org.uk

Orbit Heart of England – www.orbit.org.uk

Raglan Housing – www.raglan.org

Riverside ECHG – www.riverside.org.uk

Sanctuary – www.sanctuary-group.co.uk

Viridian Housing – www.viridianhousing.org.uk

Warwickshire Rural Housing Association – www.warwickshirerha.org.uk

Waterloo Housing Group – www.waterloo.org.uk

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