

# **Tenancy Strategy**

## **2021- 2024**

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## 1. Aim and objectives of the strategy

The aim of this strategy is to promote clarity and fairness for applicants and tenants, providing a guide to Registered Providers (RPs) <sup>1</sup>, many of whom manage stock over a large geographical area, and to support Herefordshire Council in the provision of genuinely affordable, safe and attainable housing. To achieve this, the strategies objectives are to:

- To provide guidance to local RPs and any other affordable housing providers in the development of their tenancy policies;
- Encourage the best use of social housing stock and to make sure it meets the identified needs of the area, including addressing issues around affordability;
- To ensure the use of fixed term tenancies is consistent, does not disadvantage vulnerable households and reduces the risk of homelessness;
- To ensure that flexible tenancies do not have a negative impact in terms of homelessness; and
- To provide intelligence about the local housing market which can be used as a basis for the development of future policy and practice.

## 2. Introduction

The Localism Act (2011) established the requirement for local authorities to produce a tenancy strategy, setting out the council's approach to issues affecting social and affordable housing tenants living in the geographical area, and which RPs, operating in the area, must consider when setting their own policies.

Need and demand for affordable housing in Herefordshire outstrips supply. It is therefore important that RPs work in partnership with the council to meet identified housing need and make the best use of stock, ensuring it is affordable for local people and promotes the councils strategic priorities set out in the [county plan 2020 - 2024](#). Access to safe, decent and affordable housing is essential to the delivery of all of these priorities.

- **Environment** - Protect and enhance our environment and keep Herefordshire a great place to live
- **Community** - Strengthen communities to ensure that everyone lives well and safely together

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<sup>1</sup> Housing associations and other organisations who provide social housing and are registered with Homes England

- **Economy** - Support an economy which builds on the county's strengths and resources

Information about the provision of affordable housing in Herefordshire can be found in the [Housing Market Area Needs Assessment](#) (HMANA) 2021 and the council's local housing strategy 2021 -2026. This strategy brings together a number of other housing related strategic documents that together, provide the framework through which our housing related priorities will be achieved.

### **3. Statutory and Regulatory Requirements**

**3.1 The Localism Act 2011** requires local housing authorities in England to prepare and publish a Tenancy Strategy and to keep it under review. RPs and any other providers of affordable housing, must have regard to the local authority Tenancy Strategy when formulating policies relating to:

- a) the type 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 certain term, the length of the term: and
- d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

The Act also states that a local housing authority must have regard to its Tenancy Strategy in exercising its housing management functions.

The Act introduced a number of fundamental reforms in respect of affordable housing tenancies.

These include:

- The ability of social housing landlords to offer 'flexible' or fixed term tenancies for a minimum of 5 years, or in exceptional circumstances, for 2 years;
- An increased flexibility for local authorities to set their own allocation policies to meet local needs and circumstances;
- The introduction of the affordable rent tenure, with rents of up to 80% of market rents and the ability to convert vacant social rent properties to the affordable rent tenure;
- The power enabling local authorities to place homeless households in appropriate private rented sector properties when discharging their homelessness duty.

From January 2018, the regulation of social housing providers in England became the function of the Regulator of Social Housing (RSH). As part of the framework for the regulation of social housing providers, the regulator has developed a set of standards that RPs have to meet. These include a [Tenancy Standard](#), which requires RPs to have a clear tenancy policy, setting out the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of housing stock.

**3.2 Welfare Reform Act 2012** - There has been a range of housing and welfare reforms since the passage of the Localism Act. The most fundamental is the Welfare Reform Act (WRA) 2012, which introduced universal credit, bringing a range of existing benefits into a single monthly payment with housing costs primarily paid directly to the tenant. The WRA also introduced the removal of the 'spare room' subsidy (aka the bedroom tax), the restriction to single room rate for single people under the age of 35 (in the private sector), the introduction of the benefit cap, all of which added to pressure on household budgets. Further reforms were introduced by the Welfare Reform and Work Act 2016, including lowering of the benefit cap and restrictions on benefits to households with children.

**3.3 Housing and Planning Act 2016** - This introduced Starter Homes as an affordable housing product and the voluntary Right to Buy. The 2016 Affordable Homes Programme was widened to include a range of ways to support people into home ownership, such as more flexibility for shared ownership schemes and a rent to buy product. The 2017 Housing White Paper 'Fixing our broken housing market' led to a change in the definition of affordable housing to introduce a wider range of tenures.

**3.4 Homelessness Reduction Act 2017** - This act significantly changed the way in which local authorities are required to provide support for homeless people and those threatened with homelessness, introducing earlier intervention and prevention, and the duty of other public bodies to refer households at risk of homelessness to the local authority homelessness service. If the authority fails to provide interim accommodation, or if the accommodation provided is unsuitable for the applicant, this can be challenged and ultimately subject to judicial review. More information about the councils homelessness work can be found on the councils [website](#) and in our [homelessness prevention and rough sleeping strategy 2020-2025](#).

**3.5 Secure Tenancies (Victims of Domestic Abuse) Act 2018** – This act placed a duty on local housing authorities to grant old-style secure tenancies to victims of domestic abuse in specific circumstances so that they do not lose security of tenure.

#### **4. Local housing stock information**

Herefordshire has a total dwelling stock of 85,995 dwellings in April 2019.<sup>2</sup> Of this 86.5% is in private sector ownership and 13.1% by Registered Providers, and 0.4% by other public sector bodies.

**4.1 Owner occupation** - Data from the Land Registry to year ending March 2020 shows that entry level costs to buy a property in Herefordshire are estimated to start at about £100,000 for a flat, rising to £260,000 for a detached home. Lower quartile prices across all dwelling types show a quartile average price of £178,000.<sup>3</sup>

Income distribution data for the county shows that about 29% of households have incomes below £20,000 with a further 18% having an income in the £20-30,000 range. The median income is estimated to be around £31,800 pa with the lower quartile average household income being £18,400. The estimated household income needed to be able to purchase a property in Herefordshire is £39,800. This indicates that a considerable proportion of the population are not in a position to purchase a property.<sup>4</sup>

The median house price-to-earnings ratio in Herefordshire in 2019 at 11.9 is significantly higher than both the West Midlands and national averages, at 6.2 and 7.1 respectively, pointing to stronger relative affordability pressures. This is based on workplace-based earnings.<sup>5</sup>

**4.2 Private rented sector** - Median monthly rents vary from £412 for a room to £995 for 4 or more bedrooms. Whilst the median rent for all properties is 7% below the West Midland average, rent in Herefordshire for rooms and three bedroom properties are above the regional average. Rent trends over the last 5 years have grown by an average of 9%, with the strongest growth in smaller properties. Income data suggests that the estimated household income required to purchase rather than rent privately is £17,800.<sup>6</sup>

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<sup>2</sup> MHCLG Live Tables, Table 100

<sup>3</sup> Icenj, HMANA, 2021

<sup>4</sup> Icenj, HMANA, 2021

<sup>5</sup> Icenj, HMANA, 2021

<sup>6</sup> Icenj, ibid







19 has highlighted the health aspects of overcrowding and the impact of lack of space to work to achieve educational and employment outcomes.

Please note that not all social housing is allocated through the Homepoint system. RPs usually agree to circa 75% of their stock being allocated through the housing allocation system, with the remaining 25% being allocated through other means. This approach enables RPs to respond flexibly to housing need and to accommodate the changing needs of their existing tenants.

#### **4.5 Providing new affordable homes**

The HMANA evidences a need for 442 homes per annum for rented affordable housing and 175 per annum for affordable home ownership products. This assessment confirmed that the council is justified in prioritising the delivery of housing at social rent levels for low-income working households. Consequently the council will continue to prioritise homes at social rent levels wherever possible and in perpetuity.

### **5 Tenure types**

#### **5.1 Social rent**

The council recognises the importance of ensuring that affordable housing developments are viable. However, there is a need to ensure that housing is truly affordable for local people. For those on low incomes, housing options are limited. The recent HMANA identified a need for the council to continue to prioritise the development of social housing units to ensure that the many households on low incomes in the county were not excluded from decent, secure housing.

Developments in Herefordshire that have secured Homes England funding towards the provision of affordable homes are contractually committed to charging affordable rents. The Affordable Homes Programme (AHP) 2021 to 2026 does provide funding for Social Rent, but only within areas of high affordability pressure, which Herefordshire is not, or elsewhere provided that the grant required is not higher than it would be for Affordable Rent. Specialist housing schemes can be let at Social Rent even if they are outside areas of high affordability. For any other Social Rent provision outside areas of high affordability, it will be for Registered Providers to demonstrate through evidence that there are exceptional reasons why Social Rent provision should be provided, in preference to Affordable Rent.

Consequently, the council will continue to require the majority of properties subject to S106 affordable housing planning obligations to be let at social rent levels.

## **5.2 Affordable rent**

The council supports the use of affordable rent to ensure viability and because it enables the provision of additional high quality below market cost rental properties. However, in order to ensure that this provision continues to meet local housing need, the council believes that Affordable Rent levels should be no more than the Local Housing Allowance (LHA) level. The council recognises and is pleased that RPs delivering in Herefordshire are usually setting affordable rents at, or below, LHA rates. This reduces the likelihood that high rents will be a disincentive to people to enter into employment and/or limit the potential for tenancies to be insecure.

When the council invests in a scheme or acquisition through use of its capital resources, the council will expect to have a greater role in the negotiation of rent levels.

## **5.3 Rent to buy / shared ownership**

The council support the use of rent to buy and shared ownership schemes as a means of enabling people on lower incomes to secure their own home.

## **5.4 Moving between types of rent**

Currently data on the number, size and type of tenancies that are used is limited. The majority of affordable rent tenancies have been provided through the Affordable Homes Programme (AHP), which in the past has limited development to affordable rent tenancies in Herefordshire as outlined in section 8.

Data from the HMANA shows that there remains a need for the council to prioritise the provision of housing at social rent, rather than affordable rent levels. The council would like to be informed of any proposed movement between rents in order to understand the reasons for and impact of the decision. The [rent standard](#) April 2020, sets out the following information about moving between rent types. The council would expect all RPs to follow this guidance and keep us informed of any planned conversions.

Where a tenancy subject to fair rent protection ends and the property is re-let, that new letting should be at social rent (or Affordable Rent where applicable and permitted. See 3.17a of the rent standard).

On re-letting of a property previously occupied by a high-income social tenant, the new letting should be at social rent (or Affordable Rent where applicable and permitted. See 3.18a of the rent standard).

Social rent properties may not be converted to:

- a. Affordable Rent (other than in the circumstances set out in chapter 2 of the [Rent Policy Statement](#));
- b. market rent (other than in the circumstances set out in chapter 4 of the Rent Policy Statement); or
- c. intermediate rent.

Affordable Rent housing must not be converted (including on re-let) to:

- a. market rent (other than in the circumstances set out in chapter 4 of the Rent Policy Statement); or
- b. intermediate rent.

## **7. Tenancy Types**

The Council's strategic position on tenancy types is as follows:

### **7.1 Introductory / Starter Tenancies**

The council supports the use of Introductory and/or Starter tenancies that provide an effective housing management tool to ensure that new tenants understand their obligations under the tenancy agreement. Where these are used, they should normally be entered into for a 12-month period, which may be extended to 18 months, if necessary. Upon successful completion, it is expected that it will be automatically converted to the relevant tenancy used by the RP.

### **7.2 Fixed Term (flexible) Tenancies**

The council understands that RPs may wish to introduce fixed term tenancies for new tenants or those originally offered a starter or introductory tenancy. In order to ensure lettings remain sustainable and that families are supported, it is the council's preference that fixed term tenancies should be offered as follows:

- The standard minimum tenancy is 5 years, excluding any introductory period.

- Longer tenancies (up to 10 years) are offered for specialist, adapted properties, particularly for families with disabled children or the limited stock of larger properties (*4 beds or more*).
- 2 year transitional tenancies should only be used in exceptional circumstances e.g. where the prospective tenant is expected to move on within two years' time to accommodation that is more permanent.
- If a fixed term tenancy is going to be used then the RP needs to ensure they provide the appropriate advice and information to the tenants regarding their housing options at the time of letting and advise when their tenancy review is going to happen.

Herefordshire Council expects a review of a fixed term tenancy to be completed at least three, preferably six months before the tenancy end date. When reviewing a tenancy, the presumption should be that a further fixed term tenancy is offered unless there is a good reason not to do so.

We understand from the consultation process undertaken to develop this tenancy strategy, that some local RPs are moving away from fixed term tenancies.

### **7.3 Use of Life time tenancies**

The council believes that for some residents a life time tenancy should be offered, including where the circumstances which led to them being granted a tenancy are unlikely to change of time. Examples include designated housing for people with learning disabilities or enduring mental health needs, for some types of physical disabilities, including injured ex-service personnel, people living in sheltered or extra case housing. Lifetime tenancies should also be offered in cases of domestic abuse where the tenant already has a lifetime tenancy and is being housed on the basis of the abuse in line with the Secure Tenancies (Victims of Domestic Abuse) Act 2018. A lifetime tenancy gives security to these tenants, their carers and families.

### **7.4 Use of Assured Shorthold Tenancies**

The council recognises the benefits of using assured shorthold tenancies (AST) where periodic tenancies are not possible e.g. in supported accommodation or where the RP does not own the property. AST's enable RPs access to a wider range of accommodation. The future of AST's is under review through the [Rent Reform Bill](#). The council consider that this may become an area of risk for tenants and will seek to

give guidance on acceptable alternatives as and when the Act progresses through parliament. The government issued a new [model agreement](#) for shorthold assured tenancies in January 2021.

## **8 Renewal and termination of tenancies**

RPs are required to produce policies that will determine the process by which tenancies will be renewed or terminated at the end of the fixed term tenancy. The following considerations should be taken into account during the review process:

- Household's current income and future income.
- Tackling overcrowding and under-occupation.
- Prevention and alleviation of homelessness.
- Making the best use of adapted properties.
- The purpose of the accommodation and any changes since the start of the tenancy.
- The stability of family life and education where children are part of the household.

Reasons for non-renewal may include under-occupancy where a vacancy could be created for a larger household on the Home Point register or where the household are occupying an adapted property and no-one living there now requires the adaptations. In these circumstances, the council would expect an alternative offer of accommodation to be made.

Non-renewal for reasons of rent arrears or anti-social behaviour should be avoided, as these issues should be dealt with through the normal housing management process.

The council does not want tenants to be disincentivised from bettering their circumstances and therefore would prefer decisions not to renew a tenancy automatically because the tenant has obtained employment or improved their financial circumstances to be rare and supported by evidence of significant, ongoing and secure improvement in their income and/or wealth.

If the RP decides they are not able to renew the tenancy at the end of the fixed-term then the RP would need to do the following:

- A review of a fixed term tenancy should be completed at least 3, preferably 6 months prior to the end of tenancy.

- RPs should inform the tenant of their decision to end the tenancy at least three, preferably six months before it ends and clearly set out why another tenancy will not be granted. Tenants should be advised of the right to appeal the decision and the process to request a review.
- Households affected by the termination of a tenancy must be provided with relevant advice and assistance to support them in successfully relocating to alternative accommodation and prevent homelessness in line with the Homelessness Prevention Protocol and the National Housing Federations [Commitment to Refer](#).
- While the council expects RPs to work with the tenants to ensure that there is alternative housing available for them at the end of the fixed term tenancy, formal notification should be issued to the council's Housing Solutions Team to prevent homelessness occurring as a result of ending a fixed term tenancy.

RPs should have procedure mechanisms for tenants (or prospective tenants) who wish to appeal/complain about the type or length of tenancy offered. This system should also allow tenants to appeal against decisions not to grant another tenancy on the expiry of the fixed term.

## **9 Tenancy management, tenancy sustainment and tackling tenancy fraud**

The council expects all RPs to work proactively to manage and sustain tenancies. This should include regular contact with the tenant, regardless of tenancy type. For those on fixed term (flexible) tenancies this contact should be at least annually and should include a reminder of the tenancy end date and the grounds for not renewing a tenancy.

Affordable rented housing is in high demand and it is therefore important that it is, and continues to be, occupied by those who have been allocated the property through the Home Point system. Housing tenancy fraud covers a wide range of fraud such as unlawful sub-letting, false homeless applications, false successions and right to buy. Unlawful occupation of social housing has a direct financial impact on Local Authorities because they are responsible for providing and paying for temporary accommodation for homeless people who could otherwise be housed in permanent social housing.<sup>11</sup> The Prevention of Social Housing Fraud Act 2013 made it a criminal offence for tenants to sub-let or part with possession

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<sup>11</sup> Local Government Fraud Strategy, 2011

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118508/strategy-document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118508/strategy-document.pdf)

of their socially rented home. The council expects RPs to take action to recover possession where unlawful occupation is established.<sup>12</sup>

## **10 Mutual Exchange**

RPs are asked to ensure that they publicise information about the process that they have in place to aid mutual exchanges, including the details of internet based services and that they give support to tenants to use these services, particularly those who do not have access to the internet. Mutual exchange opens up choice for existing tenants and can contribute to reducing under occupation and overcrowding.

## **11 Maximising use of existing stock**

The council recognise that housing needs and trends change over time. Where housing is no longer meeting the needs of the people for whom it was originally developed, the strategic housing team are open to discussions about broadening or potentially changing its use subject to any planning process required to enable this. One example could be housing that was developed for older people in rural locations that has become hard to let due to the size of the dwellings.

## **12 Disposal of assets**

There is significant demand for affordable housing in Herefordshire and generally, the council is reluctant to see a reduction in provision in the county. However, there can be good reasons for the disposal of stock and where these occur the council would hope that they are:

- Part of a formally agreed strategy for the disposal of assets, supported by a thorough options appraisal, including consideration of any funding or other obligations;
- Predicated on the provision of more appropriate and sustainable housing in the county;
- Unlikely to have a negative impact on the balance of stock in a locality or on the sustainability of the local community.

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<sup>12</sup> [Chartered Institute of Housing, New approaches in tackling tenancy fraud, May 2014](#)

When disposing of Affordable Rent property that has received Homes England investment, RPs are reminded that they will be subject to Homes England's [historical grant notifications process](#). The disposal of Affordable Rent and Social Rent homes on the open market, or voluntarily to a tenant on shared ownership terms, is deemed a relevant event for grant recovery purposes. Providers must also refer to the Regulator of Social Housing's [notifications guidance](#) on disposals.

### **13 Discharge of homelessness**

The council has a duty to secure accommodation for homeless people who are eligible for assistance, in priority need and unintentionally homeless. The Localism Act 2011 and Homeless Reduction Act 2017 have allowed local authorities to meet their homelessness duty by providing good quality private rented homes. The council use this flexibility to prevent and tackle homelessness, alongside working with RPs.

### **14 Monitoring and review**

Monitoring and review will need to consider two main areas:

- a) The effectiveness and extent to which the measures are undertaken. This includes measuring the number of fixed term tenancies issued and terminated reasons for termination, the number of conversions to affordable rent and homelessness placements in the private sector.
- b) The changing market conditions. It will therefore also be necessary to monitor housing need, affordability, new provision and its rent levels.

Monitoring will take place internally through the Housing Board and on at least an annual basis with information from RPs to support the review of the effectiveness of the strategy and to inform future strategy development. It is proposed that the Policy and Practice group should provide feedback to the council on the impact of the strategy.

Data to be collected will include:

- Tenancy length of tenancies terminated



- Fixed term tenancies granted
- Fixed term tenancies less than 5 years
- Fixed term tenancies terminated and reasons for termination
- Lifetime tenancies granted
- Fixed Term Tenancy referrals to the Housing Solutions Team
- Number of offers to homeless households where a duty has been accepted

Herefordshire Council will be reviewing this strategy annually in order to ensure that any changes in housing policy and legislation are reflected in this document.

## **15 Equalities**

Policies must be supported by a robust equality impact assessment, a copy of which should be provided to the council.

## **16 Registered providers tenancy policies**

RPs are asked to have regard to this strategy when reviewing their own Tenancy Policies.

The council acknowledges that many of the RPs work across a number of Local Authority areas but where possible the council would like to ensure that all tenancy policies are equitable to both housing applicants and tenants and provide transparent advice and information.

The council expects every RP operating in the county to publish clear and transparent tenancy policies covering:

- The kinds of tenancies they will grant;
- Where they grant tenancies for a fixed term, the length of those terms;
- The circumstances under which they will grant tenancies of a particular type;
- The circumstances under which a tenancy may or may not be reissued at the end of the fixed term, in the same property or in a different property;
- The way in which a tenant or prospective tenant may appeal 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 expiry of the fixed term;

- Their policy on taking into account the needs of those who are vulnerable, by reason of age, disability or illness, and households with children, including through tenancies which provide a reasonable degree of stability; and
- The advice and assistance they will give to tenants on finding alternative accommodation in the event they decide not to grant a further tenancy
- The appeals/complaints process to be followed, including details of timescales for reviewing appeals/complaints and the procedure to be followed if tenants are dissatisfied with the outcome of the appeal/complaint.

**In addition, the council requests that it is consulted with on new tenancy policies and any significant changes that are made to existing RPs Tenancy Policies as this may affect services offered through the council.**

The Council requests that RPs publish their latest Tenancy Policy on their respective websites.