



Cornwall Local Tenancy Strategy

(update of Strategic Tenancy
Policy April 2012)
Formal Consultation version

July 2018

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Date	Version	Author/Editor	Comments
December 2017	Key Principles	Sarah Thorneycroft	Set of key principles discussed and agreed by Housing Management Forum as the basis for a revised strategy document
May 2018	Initial Consultation Draft	Sarah Thorneycroft	First draft for informal consultation to Housing Management Forum members and Portfolio Holder.
July 2018	Formal Consultation version	Sarah Thorneycroft	Formal consultation version for engaging with housing providers, tenants, Portfolio Holder and anyone with an interest in social housing

Comprehensive Impact Assessment Record					
Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date
May 2018	Initial	Complete	tbc	Sarah Thorneycroft	April 2022

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1. Summary

- 1.1 Cornwall prepared its first Local Tenancy Strategy in April 2012 and this consultation draft document updates that version and is circulated to Partners, tenants and anyone with an interest in social housing for comment. Housing Provider Partners have agreed a set of key principles and commented on an initial draft of this Strategy.
- 1.2 The purpose of the Local Tenancy Strategy is to provide a set of principles that registered providers operating in Cornwall should take into account when formulating their own tenancy policies and procedures. Tenancy policies must be produced by all landlords and should set out the landlord's policy on the use of different types of tenancies. This policy will also apply to private developers who provide some affordable rented products (e.g. shared ownership) but are not local registered providers.
- 1.3 The aim of this Strategy is to encourage all registered providers working in Cornwall to provide a good mix of tenancies for residents that will help meet local housing need and improve choice in Cornwall's housing market.
- 1.4 The Local Tenancy Strategy includes principles for social landlords around:
 - The kinds of tenancies they grant;
 - The circumstances under which they will grant a tenancy of a certain kind;
 - The length of any fixed term tenancy; and
 - The circumstances under which they will grant a further tenancy upon the end of an existing fixed term tenancy.
- 1.5 These factors represent the basic requirements for the local tenancy strategy. In addition, there are other needs that are considered to be important in letting a sustainable tenancy in Cornwall and the Local Tenancy Strategy describes some of the key factors that should also be taken into account, such as:
 - Principles in letting tenancies;
 - Advice and assistance to tenants; and
 - Homelessness prevention.

2. Strategy Background

- 2.1 The Localism Act 2011ⁱ placed a new duty on local housing authorities to prepare and publish a tenancy strategy. Tenancy strategies should be produced by all councils which are housing authorities whether or not they are still landlords. These tenancy strategies will set out the matters to which landlords must 'have regard' in setting their tenancy policies.
- 2.2 Cornwall prepared its first Local Tenancy Strategy (known as the Strategic Tenancy Policyⁱⁱ) in April 2012 and this document set out the broad objectives that registered providers working in Cornwall should have regard to when formulating their own tenancy management policies. Tenancy policies must be produced by all landlords (council departments, Arm's Length Management Organisations and registered providers) and should set out the landlord's policy on the use of different types of tenancies.
- 2.3 The revised Cornwall Local Tenancy Strategy continues to be developed collaboratively between the Council and its registered provider partners and other key stakeholders. For the purposes of this document the term 'registered providers' includes Cornwall Housing Ltd (Cornwall Council's Arm's Length Management Organisation) and other private registered providers unless there are specific differences in approach that need to be identified.
- 2.4 Regard has been given to Cornwall's Housing Strategy, Homechoice Allocation Scheme and the Homelessness Strategy throughout the development of the Strategy.
- 2.5 New legislation was introduced in 2016 which has had an impact on tenancy policies for local authorities - the main aims of the Housing & Planning Act 2016ⁱⁱⁱ were to:
- Improve landlords' ability to get the best use out of social housing by focusing it on those who need it the most for as long as they need it;
 - Ensure that those who need long term support are provided with more appropriate tenancies as their needs change over time; and to
 - Support households to make the transition into home ownership where this is achievable.
- However, the regulations that will set out expectations in more detail have not been released to date.
- 2.6 New legislation in 2017 in the form of the Homelessness Reduction Act^{iv} sets out the circumstances that households threatened with homelessness are under and when they should be offered support from local authorities to try and prevent them from becoming homeless. Specific duties for the local authority within the Act include the duty to provide advisory services, the duty to assess all eligible applicants' cases and agree a plan, the duties owed to those who are homeless and the duties to help secure accommodation.
- 2.7 This consultation version is circulated to Partners, tenants and anyone with an interest in social housing for comment. Partners, through the Housing Management Forum^v agreed a set of key principles (appendix 1) which have been used as the basis for an informal consultation version and this more formal consultation version.

3. Purpose of this Strategy

- 3.1 The purpose of the Local Tenancy Strategy is to provide a set of principles that registered providers operating in Cornwall should take into account when formulating their own tenancy policies and procedures.
- 3.2 Cornwall's Housing Strategy sets the context for this Strategy and establishes the strategic policy framework that ensures Partners work together to allocate the limited available social and affordable rented housing to its most effective use.
- 3.3 The aim of this Strategy is to encourage all registered providers working in Cornwall to provide a good mix of tenancies for residents that will help meet local housing need and improve choice in Cornwall's housing market. This will ensure that the fundamental principal of having a secure home in a balanced and stable community is at the heart of all housing providers' tenancy policies across Cornwall. The introduction of significant welfare reforms over the last few years has made an affordable, secure home an even greater priority for those people to whom renting is the only option available to them.
- 3.4 The Government's direction on tenure requires all registered providers to demonstrate that they issue tenancies that are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the local community and the efficient use of their housing stock.
- 3.5 In many cases this can mean letting fixed or flexible term tenancies for a specified number of years rather than indefinitely through lifetime secure or assured tenancies as has often been the case in the past. This better reflects the requirement for council and registered provider tenancies to be granted to meet immediate housing needs such as overcrowding or homelessness.
- 3.6 In addition, there are other needs that are considered to be important in letting a sustainable tenancy in Cornwall and the Local Tenancy Strategy describes some of the key factors that should also be taken into account, such as:
 - Principles in letting tenancies;
 - Advice and assistance to tenants; and
 - Homelessness prevention.

4. Scope of the Strategy

- 4.1 Under the Localism Act, the Council is required to prepare and publish a local tenancy strategy setting out the matters to which all registered providers working in Cornwall are to have regard during the formulation of their own tenancy policies. This Strategy will also apply to private developers who provide some affordable rented products (e.g. shared ownership) but are not local registered providers.
- 4.2 This includes:
- The kinds of tenancies they grant;
 - The circumstances under which they will grant a tenancy of a certain kind;
 - The length of any fixed term tenancy;
 - The circumstances under which they will grant a further tenancy upon the end of an existing fixed term tenancy.
- 4.3 These factors represent the basic requirements for a local tenancy strategy. In addition, there are other needs that are considered to be important in letting a sustainable tenancy in Cornwall and the Local Tenancy Strategy describes some of the key factors that should also be taken into account, such as:
- Principles in letting tenancies;
 - Advice and assistance to tenants and prospective tenants; and
 - Homelessness prevention.
- 4.4 It should be borne in mind that there are still some legislative differences for local authority registered providers and private registered providers. Both types of registered provider will be referred to as 'registered providers' for the purposes of this document when they are required to operate in the same way, and will only be identified as 'private registered providers' or 'local authority registered providers' if the rules are different.
- 4.5 It is intended that this Local Tenancy Strategy will be regularly monitored to review the impacts of any new tenancy legislation, and will be completely reviewed in five years if no significant changes are required in the interim. It may be necessary to amend this Strategy before this date if there are changes to legislation or procedural matters that will have an impact on the Strategy. If this is required, it is likely that these types of changes to the Strategy will be taken forward as an amendment to part of the Strategy rather than as a total review.

5. Legal Framework

- 5.1 Part 7 Chapter 2^{vi} Section 150-153 of the Localism Act 2011 requires local authorities in their strategic housing authority role to publish a tenancy strategy.
- 5.2 The legislation does not require landlords to comply with the Strategy - they must 'have regard to' it. This means that registered providers who want to operate in Cornwall have to take what the Strategy says into consideration, think about how it works with their business models and aspirations and can then deviate from the Strategy if they have good reasons to do so. The Council would expect the provider to discuss any intended deviations with relevant Officers.
- 5.3 The Housing & Planning Act 2016^{vii} requires local authorities to offer new tenants fixed term tenancies in the majority of cases and prevents local authorities from offering secure tenancies for life in most circumstances. The minimum fixed term will be 2 years and the maximum will be 10 years, potentially longer for families with school age children. Registered providers will still have discretion over whether or not to offer a lifetime tenancy (known as assured tenancies).
- 5.4 The regulations that are intended to provide further detail such as how local authorities will issue fixed term tenancies and what type of tenants will still be offered lifetime tenancies has not been released to date. However, the Localism Act of 2011 did provide local authorities with the option of offering fixed term tenancies and the principles as set out in this document will apply when regulations are released.
- 5.5 The Housing & Planning Act 2016 also introduced other changes, subject to the release of regulations, including:
- Mutual exchange: local authority and private registered provider landlords will have discretion to grant lifetime tenants a further lifetime tenancy when they swap homes;
 - Transfers: local authority landlords will have discretion over whether or not to grant a transferring tenant another lifetime tenancy;
 - Succession rights: will follow the same rules irrespective of when the tenancy was granted. Spouses, civil partners and those who live together as a couple will continue to have an automatic right to succeed a lifetime tenancy where a succession has not already occurred.
- 5.6 The Homelessness Reduction Act^{viii} sets out the circumstances that households threatened with homelessness are under and when they should be offered support from local authorities to try and prevent them from becoming homeless. It extends the period during which someone might qualify as being threatened with homelessness from 28 to 56 days together with a duty to treat an applicant as threatened with homelessness if they present a valid section 21 notice. Specific duties for the local authority within the Act include the duty to provide advisory services, the duty to assess all eligible applicants' cases and agree a plan, the duties owed to those who are homeless and the duties to help secure accommodation.

6. Tenancies

Overview

- 6.1 The Cornwall Local Tenancy Strategy chapter on 'Tenancies' covers the following policy areas:
- Tenancy Types;
 - Reviewing Tenancies;
 - Right of Appeal;
 - Succession; and
 - Moving within the Social Housing Sector.

Tenancy Types

- 6.2 The Government's direction on tenure requires all registered providers to demonstrate that they are issuing tenancies that are appropriate to the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of their housing stock.
- 6.3 It is important to recognise that the current shortage of affordable homes in Cornwall means that homes must be offered to those households that are in most need and for as long as those household need these homes. As such, tenancies will often be granted to meet an immediate need such as overcrowding or homelessness. As the individual circumstances of many households is likely to change over time it is important to regularly review how tenants are housed so that providers can ensure that the accommodation is appropriate to the household and can continue to meet the needs of the most vulnerable.
- 6.4 Where the individual circumstances of some households are unlikely to change over time it is considered unnecessary to regularly review this type of household's tenancy.
- 6.5 The Council expects all registered providers to issue the most suitable tenancies based on a tenant's circumstances at the time of letting so as to provide the tenant with the most appropriate form of security.

Introductory and Assured Shorthold Starter Tenancies

- 6.6 All of the tenancies listed below can be subject to an introductory period of one year, extendable to 18 months if required. This enables the new tenant to demonstrate that they can maintain a tenancy in an appropriate manner.
- 6.7 With an introductory tenancy the security of tenure is reduced allowing the registered provider to recover possession of the property in the event of a breach of the tenancy conditions by issuing a valid section 21 notice, for example for serious anti-social behaviour or rent arrears.

Lifetime Secure and Assured Tenancies

- 6.8 Local authority registered providers such as Cornwall Council (through Cornwall Housing Ltd) may no longer be able to offer 'lifetime' secure tenancies on their owned housing stock once the Housing & Planning Act 2016 regulations have been released unless there are exceptional circumstances to take into account. Existing Council tenants with a lifetime tenancy will keep this type of tenancy unless they breach their tenancy conditions or choose to move (although there will be some exceptions that will apply).
- 6.9 Exceptions will be described in regulations but is expected that lifetime secure tenancies will continue to be issued by local authorities to specific types of households. Private registered providers can still offer 'lifetime' assured tenancies if this is the most appropriate type of tenancy for the tenant concerned. This will include households such as families fleeing domestic abuse and those moving into long term supported housing (such as people with a disability in need of adaptations or older people moving into sheltered or extra care housing).
- 6.10 If the local authority moves one of its tenants with a lifetime tenancy they will retain this type of tenancy. Other providers also have discretion when moving tenants in terms of retaining their current tenancy.

Fixed Term Tenancies

- 6.11 All registered providers can offer fixed term tenancies - these are generally known as flexible tenancies if issued through local authority registered providers and fixed term tenancies if issued through private registered providers. For the purposes of this Strategy the term 'fixed term' will apply to both fixed and flexible term tenancies.
- 6.12 The individual circumstances of households accommodated in the social sector are likely to change over time and some of these scarce homes could become under-occupied or occupied by tenants who could afford to buy a home or rent privately. Offering fixed term tenancies will enable regular reviews to be carried out on tenant's circumstances.
- 6.13 If a tenant's circumstances do change and the property is considered to be overcrowded or has spare bedrooms and is generally in demand, the tenant can be supported to move on to more appropriate accommodation in the social or private sectors.
- 6.14 Alternatively, a property might still be appropriate for the tenant but their individual circumstances might suggest a change in the tenure or tenancy of the property - and options such as 'pay to stay' or shared ownership could be supported.
- 6.15 Fixed term tenancies should not be used where the intention is to provide a vulnerable tenant with a secure and long term home or where circumstances are unlikely to

change, for example for older, disabled or vulnerable tenants with lifelong support needs.

- 6.16 Housing providers must not use fixed term tenancies as a shortcut to tenancy enforcement or addressing tenancy breaches such as rent arrears or engaging anti-social behaviour.
- 6.17 Once the Housing & Planning Act 2016 regulations are introduced, the length of a fixed term tenancy for Council owned homes in Cornwall will generally be for five years. Legally tenancies can be issued for at least two years up to a maximum of ten years.
- 6.18 The proposed regulations will provide further guidance for local authorities and are likely to include the issuing of longer tenancies for tenants with particular circumstances – such as families with children under the age of 9 being offered a tenancy up to the time the youngest child turns 19.
- 6.19 Private registered providers can specify the length of fixed term tenancy that they will offer within their own tenancy policies although the Council expects the length of a fixed term tenancy to be a minimum of five years unless exceptional circumstances apply.
- 6.20 Individual tenant circumstances can result in the tenancy length being longer than five years.
- 6.21 In exceptional circumstances a tenancy length of less than five years may be offered, although the provider should share the reasoning for this with the Council prior to granting that tenancy. This might include occasions where homes are due for regeneration within five years or a tenant needs and wants to move but no suitable properties are immediately available.
- 6.22 Certain affordable housing products such as ‘rent to buy’ might require shorter tenancy lengths to build in the ability to regularly review how a tenant is working towards being able to buy their home within a specified time frame.

Other Tenancies

- 6.23 The Council expects that any groups of applicants who would not be suitable, or eligible for a fixed term or lifetime tenancy to be offered an alternative tenancy - for example, people needing designated supported housing for a period of time or individuals renting a room in a shared house. Other types of tenancies that would be included in this category are demoted tenancies, licences and non-secure tenancies.

Part Own/Rental Tenancies

- 6.24 The range of affordable housing products is constantly changing to reflect different aspirations in the housing market and a number of these involve a partial rental agreement such as ‘shared ownership’ and ‘rent to buy’ products. These types of

tenancies should clearly set out the expectations and conditions of securing a part ownership in a property.

Reviewing Tenancies

- 6.25 Offering introductory, fixed and flexible term tenancies will enable regular reviews to be carried out on an individual tenant's circumstances. It is important that any review of a fixed term tenancies should be reasonable and will allow residents to have a right of appeal.
- 6.26 It is expected that the review process for fixed term tenancies will start at least nine months before the tenancy is due to end in order that there is sufficient time to allow for an assessment of the options appropriate and available to the tenant to be carried out before the required six month advance notice of renewal or termination is issued.
- 6.27 Key to this decision-making process is that the end-of-tenancy review process should make every effort not to lead to a subsequent intervention under homelessness legislation.
- 6.28 A number of considerations can be taken into account when reviewing a fixed term tenancy such as:
- The household make up, particularly whether the household includes dependents of pre-school age or in full-time education, with the recognition that children stay with their parents well beyond school age for valid reasons and these should be considered on an individual basis;
 - The circumstances in which the tenancy was originally offered, such as vulnerabilities (e.g. fleeing domestic violence) and whether the household is still classed as being vulnerable;
 - Whether the property has been adapted to meet the needs of a disabled person and that person still resides in the property and needs the adaptations;
 - The support needs of the household and what is currently in place and whether this would be jeopardised by a decision to end the tenancy;
 - The occupancy levels of the household and whether they still require the size of property. Consideration should also be given in this regard to whether the property was under occupied at the time of granting the tenancy and whether those circumstances have changed, whether the tenant can afford the rent with any benefit deductions, the demand for the tenant's type of property and the stability of the area;
 - The health needs of household members, in particular where a household member is seriously or terminally ill;
 - Any caring responsibilities of the tenant to a member of the household and/or relatives/neighbours within close proximity.
- 6.29 One of the fundamental principles in reviewing fixed term tenancies in Cornwall is that there should be a presumption in favour of renewal if a tenant's circumstances have not changed and the decision to renew is in the best interest of both the tenant and the provider to do so.

- 6.30 If a tenant's circumstances remain the same and their tenancy has been satisfactory then it is assumed that the tenant will be offered a further fixed term tenancy.
- 6.31 If a tenant's circumstances have changed, registered provider landlords will ensure that the tenant is supported in:
- a. Moving on to more appropriate accommodation in the social or private sector or
 - b. In changing the tenure/tenancy of the existing home if it is of an appropriate size for the tenant (e.g. higher rent for those tenants with higher incomes or exploring shared ownership).
- 6.32 The Council recognises that there may be exceptional circumstances in which it would be unreasonable to expect someone to move, even if the above criteria applied, and will allow a tenancy to continue.
- 6.33 Regulations due to be issued relating to the Housing & Planning Act 2016 will identify the criteria which local authorities should take into consideration during reviews.
- 6.34 Six months prior to the end of the current tenancy period, the tenant will receive notification that their tenancy will be renewed or not. This notice will contain the reasons for the decision and will notify the tenant of their right to appeal if they disagree with the decision. Registered provider tenancy policies need to set out and include clear appeal and complaint procedures for the tenant to cover those instances where a fixed term tenancy is not renewed.

Right of Appeal

- 6.35 A tenant has the right to appeal any decision made about the continuation of their current local authority tenancy.
- 6.36 A tenant has no statutory right to request a review of a decision not to renew their current private registered provider landlord tenancy, although the Tenancy Standard does outline ways in which a tenant can appeal or complain about decisions made.
- 6.37 Should a tenant appeal and fail to have the decision overturned, registered providers will be able to seek possession of the property. The right to possession may then be challenged on limited grounds through the courts – i.e. the landlord has not followed the correct procedure or the court is satisfied that the decision not to grant another tenancy was otherwise 'wrong in law'.

Succession

- 6.38 Within the current statutory framework there can only be one statutory succession^{ix} allowed to a surviving spouse, civil partner or to the surviving partner of those living together as husband and wife irrespective of when the tenancy was entered into. Where a tenancy was originally a joint tenancy and one of the joint tenants dies or

surrenders their interest this counts as a succession and no further statutory successions will be allowed.

- 6.39 The would-be successor must at the time of death of the original secure tenant occupy the dwelling house as their only or principal home and be either the deceased tenant's spouse or civil partner.
- 6.40 Exceptional circumstances can apply to such situations if allowed for contractually within the tenancy agreement or at the discretion of the registered provider.
- 6.41 In the case of anyone other than a spouse or civil partner it is necessary to show that the would-be successor has been residing with the late tenant for at least 12 months before his/her death. It is likely that the would-be successor will be issued a fixed term tenancy rather than a lifetime tenancy if their circumstances suggest the property is appropriate in meeting their needs – if the property is not appropriate in meeting their needs the would-be successor can be offered an alternative.
- 6.42 Where there is more than one qualifying person to succeed, the late tenant's spouse or civil partner takes precedence. Otherwise the qualifying persons must agree amongst themselves who is to take over the tenancy and if they cannot agree the landlord is entitled to choose the successor. There can be no joint succession.

Moving within the Social Housing Sector

Transfers

- 6.43 The regulations that accompany the Housing & Planning Act 2016 will allow local authorities to apply limited discretion to enable some lifetime tenants to maintain their current tenancy if they choose to move.
- 6.44 Private registered providers continue to have discretion over whether to offer a new lifetime tenancy to a transferring tenant.
- 6.45 Existing local authority tenants with lifetime assured tenancies who choose to move will usually be offered fixed term tenancies except in certain circumstances at the local authority's discretion. Existing local authority tenants who decide to move (excluding those in certain circumstances) will generally be offered a 5 year fixed term tenancy (although in certain circumstances this could be a fixed term tenancy of at least 2 years up to a maximum length of 10 years).
- 6.46 Existing tenants moving to a different landlord may be subject to an introductory tenancy which is usually for a period of 12 months.

Mutual Exchange

- 6.47 The Council will expect all social housing providers to register with a mobility scheme, so that social housing tenants can seek out and take advantage of opportunities to move within the UK.
- 6.48 The Council expects there to be no unreasonable barriers or disincentives for tenants wishing to exchange their accommodation with another tenant, unless consent can reasonably be withheld in accordance with one of the fourteen grounds set out in Schedule 14^x of the Localism Act 2011.
- 6.49 Mutual exchanges will generally be refused if one of the properties involved is subject to a S106 local connection clause and the tenant moving into that property cannot meet local connection criteria. However there may be instances where the respective landlords can override the local connection criteria in certain circumstances – this could include cases where it is evidenced that it would cause the moving tenant(s) significant hardship if the move is not allowed.
- 6.50 The Housing & Planning Act 2016 provides private registered provider landlords with the discretion to grant lifetime tenants a further lifetime tenancy where they mutually exchange. Regulations will specify the circumstances in which registered providers can exercise this discretion.
- 6.51 In all cases of mutual exchange the Council expects all registered providers to ensure that the tenants are fully aware of the implications, including where applicable any change in secure or assured status, any change in rent level between social and affordable rent, and any gain or loss of fair rent entitlement or the right to buy, preserved right to buy, or right to acquire, before the exchange takes place.

7. Principles when Letting Tenancies

Overview

- 7.1 There are a number of factors that it is important to consider when granting a tenancy to ensure that the tenancy is appropriate and sustainable. Tenancies granted that are not in the best interest of the applicant or provider can lead to a number of issues including additional expense, long term voids, loss of rental income and an impact on well-being. This section covers the following policy areas:
- Advice and Assistance to Tenants;
 - Tenancy Sustainment including Homelessness Prevention; and
 - Operational Principles.

Advice and Assistance to Tenants

- 7.2 The Council expects all registered providers working in Cornwall to embed advice and assistance activities into their own tenancy policies and operating procedures.
- 7.3 The Council expects registered providers to give advice and assistance to their tenants before a tenancy commences, during the tenancy if required and at the end of the tenancy as required. The provision of clear advice and guidance is becoming more important in terms of sustaining tenancies as the impact of the Government's welfare reform measures continues to impact on the ability of tenants to afford their homes. New housing policies can also impact on tenancy sustainment – for example, the requirement to review fixed term tenancies could leave some tenants feeling less secure and good advice and guidance can alleviate some of these concerns.

Prior to a Tenancy Starting

- 7.4 The advice and assistance provided before the commencement of the tenancy must ensure that tenants are fully advised of the type of tenancy offered, the security of tenure, how much the rent will be, the consequences of breaching any of the tenancy conditions and any other pertinent information.

During a Tenancy

- 7.5 This would include advice and guidance on:
- Transfers or mutual exchanges plus other housing aspirations;
 - Support for tenants that have rent arrears, other potential breaches and those at risk of homelessness – whether this be directly from the landlord to the tenant or from specialist agencies around housing benefit, universal credit, personal budgeting, tenant repairs, tenancy fraud, etc.;
 - This advice can also include offers of assistance in terms of getting some tenants back into work or training.

Towards the End of a Tenancy

- 7.6 Towards the end of a fixed term tenancy, a tenant's individual circumstances will need to be assessed by the registered provider in order that the tenant is advised as to whether another tenancy will be granted at the end of the fixed period. This should be at least nine months and not less than six months before the end of the tenancy. This must include information on how to obtain advice or help with the notice and in particular, set out any obligation on the landlord to provide help or advice.

Tenancy Sustainment including Homelessness Prevention

- 7.7 In addition to advice and guidance, registered providers should consider a number of other factors when granting a tenancy to ensure that the tenancy is appropriate and sustainable.

Affordability

- 7.8 There are a number of housing products available to rent from registered providers. Increasingly welfare reform and the impact of caps on benefits have resulted in a good proportion of applicants on the housing register being unable to afford the rent of some of these products. When assessing an applicant's suitability for a property, their ability to afford the rent should be a consideration.

Aspirations

- 7.9 Social landlords should support their tenants where possible in working towards their housing aspirations. For example by offering 'rent to buy' which will help tenants improve their eligibility for shared ownership or tenancies that will help them save for a mortgage deposit. Regular reviews will ensure that registered providers are kept up to date with their tenant's aspirations and can in turn provide advice about the best options available to their tenants in terms of achieving their goals.

Homelessness Prevention

- 7.10 The Local Tenancy Strategy seeks to establish good practice between the Council and registered providers when dealing with tenants who are facing action to repossess their home which could result in homelessness. It is especially important that the procedures are carefully observed in respect of tenants who are particularly vulnerable and may require additional support to sustain their tenancies.
- 7.11 Whilst the Council retains the statutory duties to homeless households it is important that registered providers also provide their tenants with appropriate advice and assistance as part of a general approach to preventing homelessness.

- 7.12 The Homelessness Reduction Act 2017^{xi} introduces a ‘Duty to refer’ on public bodies to refer households that are homeless or threatened with homelessness within 56 days to the housing authority. This comes into force on the 1st October 2018. Whilst registered providers are not one of the public bodies specifically referred to in the Homelessness Code of Guidance June 2018^{xii}, it does state a direct relevance to registered providers who have a duty under the Housing Act 1996, the Regulator of Social Housing Regulatory Standards and Tenancy and Home Community Standards to co-operate with the Council in exercising their homelessness functions and strategic housing functions.
- 7.13 The Homelessness Reduction Act also requires the Council to provide a greater emphasis on homeless prevention in its policies, procedures and strategies. The Council is therefore reviewing the Housing Allocations Policy and the Homelessness Strategy as the Act introduces new duties to prevent homelessness for all single people and families regardless of priority need, who are eligible for assistance and threatened with homelessness.

Protection from Eviction

- 7.14 The partnership approach to preventing tenants from being evicted is based on the following key principles:
- That all registered providers have robust procedures in place for managing failing tenancies;
 - That all registered providers use eviction only as a last resort after extensive intervention has been used to try to save the tenancy;
 - That a strong working relationship is cultivated between the Council’s Housing Benefit Team, DWP and registered providers to try to ensure that outstanding Housing Benefit and Universal Credit issues are not a major contributor to the instigation of possession proceedings;
 - That where registered providers are using fixed term tenancies they should be of a minimum duration of five years in addition to any introductory period unless stipulated otherwise. Fixed term tenancies should have robust procedures in place for either extending or renewing the tenancy at the end of the term, or providing advice and assistance on alternative accommodation options well in advance of the end of the term;
 - That registered providers have an established working relationship with the Council’s Housing Options teams to ensure that tenants who are threatened with or subject to possession proceedings receive timely and independent advice on their situation.

The Use of Private Rented Accommodation

- 7.15 The Localism Act changed the Council’s main duties towards homeless persons by enabling them to offer assured-shorthold tenancies for 12 months with private landlords. The Homelessness Reduction Act builds on existing legislation relating to the ‘suitability of private rented sector accommodation’ and requires the local housing

authority to satisfy itself that specific requirements are in place where it secures accommodation for households with a priority need in the private rented sector.

- 7.16 The Council will utilise its new duties to aim to prevent homelessness and to discharge its homeless duty by helping to secure suitable private rented sector accommodation, where appropriate and where the supply of suitable accommodation allows. However as a general rule, the aim will be to continue to accommodate vulnerable households in the social housing sector where possible and appropriate accommodation is available.
- 7.17 The Homelessness Prevention Scheme^{xiii} is aimed at helping people that are homeless or threatened with homelessness to rent a home in the private sector. Financial assistance may be given to cover rent in advance and with a deposit such as a written deposit bond, subject to the availability of resources. Households can apply for assistance if they are:
- Homeless or threatened with homelessness;
 - Can demonstrate that they wouldn't be able to secure a rented home without financial help;
 - Are able to sustain a tenancy with or without support; and
 - If they are in receipt of Housing Benefit they will only be eligible if there is not an unaffordable shortfall between the rent due and the amount of benefit they would receive.
- 7.18 The Landlord Agreement requires private sector landlords to:
- Provide CHL with a copy of any notices served on the tenant or let CHL know if there are any concerns about the tenant so that CHL can provide the appropriate support;
 - Let CHL know if the tenant serves notice to quit or vacates the property; and
 - Notify CHL if rent becomes more than 1 month in arrears.

Operational Principles

Affordable Rents

- 7.19 The Council expects there to be a critical balance between uses of tenancies at affordable (also referred to as intermediate) rents and meeting local housing needs - and all providers should ensure that rents and housing costs remain genuinely affordable to the intended client groups and accord with national planning policy guidance.
- 7.20 The Affordable or Intermediate Rent housing product allows registered providers to charge up to 80% of market rents (including service charges) for new build social housing and an agreed proportion of re-lets. In terms of ensuring that affordable or intermediate rent products remain affordable the Council expects that rents of less than 80% (including service charges) will be required if:
- The rent at 80% exceeds the Local Housing Allowance cap, or

- The rent fails to meet the needs of eligible households by not being at a cost low enough for them to afford as determined with regard to local incomes and local house prices.

7.21 The Council in partnership with registered providers have developed a database to identify rent levels across Cornwall by property type, size and location which will be updated every six months to aid consistency. Registered providers will be expected to have regard to the Council's Affordable Rent database when setting their affordable or intermediate rent levels, with a view to maximising consistency across providers.

Converting Existing Social Housing Stock to Alternative Tenures

7.22 The Government's affordable homes regime places a contractual requirement on registered providers to convert and re-let a proportion of their existing social rented properties at affordable rent levels or to alternative products such as shared ownership. This is required to supplement the investment required to deliver their affordable housing programmes.

7.23 The Council expects registered providers for properties within the nomination agreement to use Cornwall Homechoice for the advertising of social housing converted re-lets, with clear labelling about the type of tenancy that is being offered and the duration of the tenancy.

7.24 In the interests of maximising choice for applicants the Council is keen to ensure that properties becoming available for re-letting are let at both affordable and social rent levels. Excluding transfers and mutual exchanges, the Council would expect to see no more than the contractually agreed number of homes let at affordable rents.

7.25 The Council will expect conversions to be made in accordance with the registered provider's published asset management strategy. Details of each conversion will be submitted to the Council to assess the strategic impact on the social housing stock in Cornwall and allow monitoring of the number of homes that are converted to ensure that it does not exceed the contractual obligation. Where there is no asset management strategy in place, the Council requires a separate discussion on each individual conversion to assess the strategic relevance and suitability of the conversion.

Higher Income Tenants - 'Pay to Stay'

7.26 The Government has confirmed that charging higher income tenants an increased rent is no longer mandatory^{xiv} for local authorities with housing stock. It is a voluntary measure for all registered providers. Registered providers considering implementing such a scheme should have regard to local income levels in Cornwall and set a sensible threshold income above which they will apply a tapered rental increase.

Under Occupation – Downsizing and Right Sizing

- 7.27 Registered providers always seek to make the best use of the social housing stock in Cornwall and in particular freeing up family accommodation where possible to meet the needs of households waiting for a suitable home. The Council wants to work with its registered provider partners to continuously improve mechanisms to encourage downsizing and right sizing when a property is under occupied.
- 7.28 Registered providers in Cornwall are already operating downsizing and right sizing incentive schemes and can use the direct lettings facility available through Cornwall Homechoice to ensure that such moves are prioritised. To support this outcome the Cornwall Homechoice Scheme encourages moves to smaller properties by awarding Band B to under-occupying applicants. The Council will work with registered provider partners to establish some basic principles that can be incorporated into a protocol to support this aim within the Local Tenancy Strategy.

Overcrowding

- 7.29 The Council has a duty to ensure that both private sector housing and social housing does not become statutorily overcrowded.
- 7.30 The Council recognises that the use of enforcement in the private sector may not always be the best course of action and that working in partnership with registered providers would lead to better outcomes for the household, the Council and the provider.

Meeting a Variety of Housing Needs

- 7.31 Cornwall's Housing Strategy, together with the Cornwall Local Plan and other key strategies all seek to ensure that housing provided in Cornwall meets a variety of local needs. As such, vulnerable households on low incomes will continue to primarily be accommodated in the social housing sector. The Council expects registered providers to provide support for vulnerable people that include intensive and proportionate tenancy management.
- 7.32 Within Cornwall Homechoice the Council operates an annual Lettings Plan which sets out principles and targets expressed as percentages for distributing the supply of social housing re-lets between broad categories of applicants. The annual Lettings Plan provides social landlords in Cornwall with the flexibility they need to ensure that changes to meet emerging or escalating needs can be accommodated.
- 7.33 The following paragraphs identifies or indicates some households that have particular needs but does not exclude any other types of households with specific needs.
- 7.34 **Homelessness:** The Council expects registered providers through nomination agreements to assist the Council with the discharge of its duties under the Homelessness Reduction Act 2017 by having due regard to the target within the

annual Lettings Plan to allocate 40% of social housing vacancies to homeless households.

- 7.35 **Accessible Homes:** There are a range of factors that are leading to an increase in the number of people in Cornwall who may need accessible housing. Demographic changes, technological advances and the changing pattern of ill health are increasing the numbers of people living with complex conditions. Advances in medicine and technology mean that more children live with complex health needs. Even if disability prevalence remains constant, the number of children with disabilities will continue to increase as the population of children and young people is forecast to grow. The population in Cornwall is not only increasing but also ageing, in line with national trends. Around 10% of people aged over 65 years have frailty, rising to between a quarter and a half of those aged over 85 years. Frailty puts people at high risk of falls and disability, increasing the demand for adaptations and accessible housing.
- 7.36 Ensuring that tenants and prospective tenants have access to housing that is suitable for them forms part of a more holistic range of interventions to help older and disabled people remain independent at home.
- 7.37 **Adaptations:** In terms of current and prospective tenants with a need for an adaptation, the Council is committed to ensuring that if an applicant bids on a property that is not adapted, the fact that the property is not adapted should not be a consideration in deciding whether to allocate that property - unless the decision is so unreasonable that no other authority would have made it. When deciding on whether to allocate a property consideration should be given to the feasibility to adapt, the personal characteristics of the individual, the impact of the decision and whether it would be reasonable in all circumstances to refuse the applicant. The Council expects that all providers working in Cornwall will abide by this principle.
- 7.38 Given the significant and generally public resources required to adapt properties together with the lack of accessible properties in Cornwall, every effort should be made to ensure that adapted properties once vacant are re-let to persons with a need for that adaptation. Although the need for adaptations is unique to each individual, the Council has set out in its Allocations scheme three categories of applicant and property that can be used to identify potential matches of person to property. Registered providers in Cornwall can use the direct lettings facility available through Cornwall Homechoice to ensure that such moves are prioritised.

Digital Technology

- 7.39 Embedding new technology into all aspects of the management of social housing to provide faster and more cost effective services to those tenants capable of embracing this new way of working provides savings to both the landlord and the tenant. However, not all tenants will be capable or confident in accessing services in this way and alternative provision must be made available to support those tenants that need additional help.

Disposals of Existing Social Housing Stock

- 7.40 Every effort should be made to retain socially owned properties within Cornwall, and the Council expects that registered providers will explore all options available to them to convert such properties to an alternative tenure or type before the decision is made to dispose of the property.
- 7.41 The Government's affordable homes regime places a contractual requirement on registered provider partners to identify properties from their existing social rented stock that are suitable for selling off on an annual basis in order to supplement the investment required to deliver their affordable housing programmes.
- 7.42 The Council expects registered providers to implement and act in accordance with their published asset management strategy. This strategy should set out the strategic direction for the future investment in and management of the organisation's housing assets including its disposal policy.
- 7.43 Details of each disposal should be provided to the Council when they take place to enable the Council to monitor the number of disposals and assess the strategic impact on the social housing stock in Cornwall.

8.Strategy Management

Proposed Memorandum of Understanding

- 8.1 The Local Tenancy Strategy provides a framework for influencing a range of housing management activities provided through registered providers operating in Cornwall.
- 8.2 The Cornwall Housing Provider Partnership at Chief Executive Level is developing a Memorandum of Understanding (MOU) relating to housing and health issues. It is proposed that processes that are related to the management of social homes be considered in a similar way. The council would take a lead in the development of such an MOU and any principles or protocols that would form part of this MOU would be developed collaboratively with partners, with the aim of identifying best practice from different partners to make these common to all where relevant.
- 8.3 This will ensure that the principles and expectations identified by Partners in the final version of this Strategy will carry more weight and will encourage all providers to work towards achieving a more consistent approach to social housing management in Cornwall.

Monitoring, Evaluation & Review

- 8.4 The Local tenancy Strategy will be monitored on an annual basis with each of the registered providers and reported as part of the Housing Strategy Delivery Plan.
- 8.5 Progress on the Local Tenancy Strategy will be reported through the Housing Management Forum and the policy will be reviewed on an annual basis and updated as and when required.
- 8.6 The Policy will be reviewed upon significant changes affecting housing strategy such as major changes to welfare benefits.

Glossary

Assured Tenancies: are tenancies for life issued by private registered providers as long as the tenant abides by the rules set out in the tenancy agreement.

Fixed Term Tenancies: are secure fixed-term tenancies with a statutory minimum term of two years.

Flexible Tenancies: are secure fixed-term tenancies with a statutory minimum term of two years.

Introductory Tenancies: all types of tenancies can be subject to an introductory period of one year, extendable to 18 months if required.

Local Authority Registered Providers: are registered providers with council owned housing stock.

Periodic Tenancies: an assured or assured shorthold tenancy may be a periodic tenancy that runs indefinitely from one rent period to the next (sometimes known as a rolling tenancy).

Private Registered Providers: are all other registered providers including housing associations and charitable bodies.

Secure Tenancies: are tenancies for life issued by local authority registered providers as long as the tenant abides by the rules set out in the tenancy agreement.

References

- ⁱ [HM Government \(2011\) Localism Act 2011](#)
- ⁱⁱ [Cornwall Council \(2012\) Strategic Tenancy Policy](#)
- ⁱⁱⁱ [HM Government \(2016\) Housing & Planning Act 2016](#)
- ^{iv} [HM Government \(2017\) Homelessness Reduction Act](#)
- ^v Cornwall's Housing Management Forum comprises representation from all social landlords working in Cornwall and meets on a quarterly basis to discuss issues that are relevant to the social rented sector.
- ^{vi} [HM Government \(2011\) Localism Act Part 7 Chapter 2](#)
- ^{vii} [HM Government \(2016\) Housing & Planning Act 2016](#)
- ^{viii} [HM Government \(2017\) Homelessness Reduction Act](#)
- ^{ix} Section 113 of the 1985 Act defines members of a tenant's family for the purposes of succession and includes: spouses, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces; including step-relations, half-relations, illegitimate children and 'persons living together as husband and wife'.
- ^x [HM Government \(2011\) Schedule 14 of the Localism Act 2011](#)
- ^{xi} [HM Government \(2017\) Homelessness Reduction Act](#)
- ^{xii} [HM Government \(2018\) Homelessness Code of Guidance for Local Authorities](#)
- ^{xiii} [CHL \(2018\) Homelessness Prevention Scheme](#)
- ^{xiv} The Housing & Planning Act 2016 did make this a mandatory process for local authorities owning stock – but the legislation was subsequently reversed to become a voluntary measure

Appendix 1

General Principles

1. The most appropriate use of social and affordable rented housing provided by registered providers is to focus it on those that need it the most for as long as they need it. This requires the availability of a good mix of affordable housing products and types of tenancies.
2. An annual Lettings Plan will set out principles and targets expressed as percentages for distributing the supply of social housing re-lets between broad categories of applicant such as homeless and overcrowded households.
3. The Homelessness Reduction Act sets new requirements on local housing authorities including duties to prevent homelessness, duties to help secure accommodation including assessing the suitability of private rented sector accommodation (waiting for secondary legislation and revised code of guidance).
4. Embedding new technology into all aspects of the management of social housing to provide faster and more cost effective services to those tenants capable of embracing this new way of working – whilst supporting those tenants that need additional help.

Tenancies

5. Providers should issue tenancies that are appropriate to the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of their housing stock.
6. When reviewing fixed and flexible term tenancies there should be a presumption in favour of renewal if a tenant's circumstances have not changed. If a tenant's circumstances have changed landlords will ensure that the tenant is supported in moving on to more appropriate accommodation in the social or private sector. A tenant has the right to appeal any decision made about the continuation of their current tenancy.
7. Every effort should be made to ensure that adapted properties are re-let to persons with a need of that adaptation.

Tenancy Sustainment

8. Providers should consider a number of factors when granting a tenancy to ensure that the tenancy is appropriate and sustainable, including affordability, the level of tenancy support required and housing aspirations.
9. The Council expects all registered providers working in Cornwall to embed advice and assistance activities into their own tenancy policies and operating procedures. New duties on advice and guidance are placed on local housing authorities through the Homelessness reduction Act.

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10. The partnership approach to homelessness prevention is based on a number of key principles including the need for robust procedures in place for managing failing tenancies; eviction used only as a last resort; and established working procedures in place to ensure that tenants who are threatened with or subject to possession proceedings receive timely and independent advice on their situation.
 11. Partners will participate under the 'duty to refer' requirements of the Homelessness Reduction Act by referring someone who approaches them and is or may be threatened with homelessness. Partners will play their part in contributing to the identified solutions for that person.

Succession

12. There can only be one statutory succession allowed to a surviving spouse, civil partner or one of those living together as husband and wife irrespective of when the tenancy was entered into. Where a tenancy was originally a joint tenancy and one of the joint tenants dies or surrenders their interest this counts as a succession and no further statutory successions will be allowed.
13. Discretion can be applied in relation to further succession rights in exceptional circumstances.

Moves, Transfers & Mutual Exchanges

14. Tenants who choose to move will usually be offered fixed term tenancies. Limited discretion can be applied to enable some lifetime tenants to maintain their current tenancy if they choose to move or mutually exchange.
15. Registered providers will support moves to smaller properties (downsizing and rightsizing).

Asset Management

16. The Council is keen to ensure that properties becoming available for re-letting are let at both affordable and social rent levels. The Council will expect conversions to be made in accordance with a published asset management strategy.
17. The Council will expect disposals to be made in accordance with a published asset management strategy. Properties identified for disposal should be replaced, and for those providers operating across boundaries properties should be replaced within a timeframe agreed with the Council. When a lower value asset is disposed of there may be a requirement to pool sales receipts to provide a new home. One exception is that higher value asset disposals made by the Council cannot be replaced as any receipts will go to the Government to fund Right to Acquire.

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