
Tenancy Strategy

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Glossary

Affordable Rent	Tenancies let by Registered Providers on rent levels of up to 80% of open market rents
Broad Rental Market Area	BRMA is an area, set by the Rent Officer, which comprises two or more distinct areas of residential accommodation adjoining at least one other area, within which a person could reasonably be expected to reside having regards to services and facilities. There are two BRMA in West Berkshire: Newbury/Thatcham and Reading.
Housing Needs Assessment	A high level assessment of the housing need across the district, looking at affordability of accommodation.
Local Housing Allowance	LHA is a national scheme that came into effect on the 7 th April 2008. It sets the maximum rent levels that can be paid by Housing Benefit for particular sized properties. The rent levels are set annually by the Rent Officer at the 30 th percentile of open market rents, according to the Broad Rental Market Area.
Localism Act 2011	Legislation that sets out the housing reforms, including Affordable Rents and fixed term tenancies
Mutual Exchange	A means of 'swapping' tenancies with another social tenant
Open Market Rents	Private rents which are set by the market.
Registered Providers	Housing providers who are registered with the Homes & Communities Agency
Social Rent	Tenancies let by Registered Providers on rent levels set at 'target' rents (usually 40-50% of open market rents) set by the Homes & Communities Agency. These are traditionally the cheapest rents in the market.
Tenancy Policy	The Policy adopted by Registered Providers explaining how they will use fixed term tenancies
Tenancy Strategy	The Strategy adopted by Local Authorities that explains their approach to the kinds of tenancies offered, the circumstances in which a landlord will grant a tenancy of a particular kind, their approach to the length of fixed term tenancies and the circumstances in which they expect landlords to grant a further tenancy upon the ending of an existing tenancy.

1. Introduction

- 1.1 The Localism Act 2011 places a duty on all local housing authorities to develop a Tenancy Strategy to guide Registered Providers (RP's) in developing tenancy policies for their own stock. The Localism Act also requires RP's to have regard to the Tenancy Strategy. This is in response to the housing reforms introduced through the Localism Act, including the new Affordable Rent tenancy which allows rents of up to 80% of market rent to be charged, and the ability to offer tenancies on a fixed term basis.
- 1.2 The introduction of fixed term tenancies represents a significant change from a position where social housing has ordinarily been for life, to one where it may only be provided for the period of time that it is needed. The Government wishes to see social housing become more flexible and to encourage mobility for tenants.
- 1.3 As a non-stock holding local authority, West Berkshire Council works closely with Registered Providers and values the role they play in helping to meet housing need across the district. Ideally, West Berkshire Council would like to see a harmonised set of rent levels, tenancy terms and renewal policies across the district, that are easy to explain to housing applicants and which respond to locally identified needs. However, Registered Providers are independent organisations and the Council recognises that they work across local authority boundaries all of whom will have differing Tenancy Strategies. Consequently, this Tenancy Strategy sets out the broad principles that the Council expects its RP partners to have regard to, rather than a detailed set of policies.
- 1.4 This Tenancy Strategy has been developed:
- To meet the requirements of the Localism Act 2011
 - In consultation with key stakeholders, including local RPs of affordable housing
 - Taking into account the Council's Housing Strategy, Homelessness Strategy, Allocations Policy, Council Strategy and Sustainable Communities Strategy.

2. Vision

- 4.1 The Council's vision is:

"Keeping West Berkshire a great place in which to live, learn, work and do business".

- 4.2 The purpose of the Council is to:

- Help you to help yourself
- Help you when you cannot help yourself
- Help you to help one another
- Promote and act in the interests of the community, people and business of West Berkshire.

- 4.3 Our guiding principles in developing our housing services for people in West Berkshire are:

- To treat every person using the housing service with compassion and respect
- To empower every person or family to make informed choices that enable them to secure accommodation that is suitable for their particular needs and to work in partnership to ensure that once housed, they have the support they need to sustain their home in the future

3. Developing Tenancy Policies

- 5.1 West Berkshire Council expects that RPs will engage and consult with the Council when developing their Tenancy Policies, to ensure that they are in line with the principles of West Berkshire's Tenancy Strategy. The Council would also expect that RPs engage and consult with residents and stakeholders

4. Affordable Rent

Background

A new tenure, known as 'Affordable Rent', was introduced by the Government, from April 2011. Affordable Rent is housing provided on the same basis as social rented housing, but at rent levels above social rents (usually set at 40-50% of open market rents) and up to 80% of open market rents. Affordable Rent is re-assessed each time a property is let, so will go up and down with local private rents. The 80% maximum must include service charges .

All new affordable homes delivered through the Homes & Communities Agency (HCA) development programme (2011-2015) will be for Affordable Rent. The HCA Framework makes it clear that their starting point is 80% of market rents unless the provider can provide justification for lower rents: this has specific implications in higher rent areas, particularly in relation to affordability for lower-income households. In addition, Registered Providers are able to convert a social rented tenancy into an affordable rent tenancy, upon the social rent property becoming vacant and available for re-let.

As Registered Providers raise development finance on their rental income stream, the higher rents achieved through Affordable Rent should increase the finance available to Registered Providers to deliver new affordable housing. However, there is no requirement on the Registered Provider to use the funds to deliver new affordable homes in the area where the funding was raised. This means that Registered Providers could convert social tenancies into affordable rent tenancies, or build new homes at an affordable rent and then possibly use the finance raised to deliver outside of the district.

Within West Berkshire, we have commonly referred to social rent as affordable rent: In the future, we will need to be certain to distinguish between the two forms of tenure.

- 4.1.1 Based on the Housing Needs Assessment 2012, and the evidence collected for the development of the Core Strategy, West Berkshire Council still believes that the greatest need is for social rented homes. In addition, the Council believes that social rented housing is the best tenure for many tenants and applicants on the

Common Housing Register. In particular, the difference between social and affordable rents becomes more significant as the size of the property increases and will also be higher in some parts of the district, for example, rural areas, where rents are higher. The Council is concerned that affordable rent will be unaffordable to households on low-incomes, especially those in low-paid employment and will also act as a disincentive to seeking employment

- 4.1.2 Whilst affordable rents can be set at up to 80% of market rents, the HCA have indicated that their starting point is 80% and that lower rents must be justified if the provider is seeking grant for development. It will therefore be extremely important for Registered Providers to ensure that they have information about the local communities for whom they are building homes. Some of the evidence required to justify rents lower than 80% has been collected through the Housing Needs Assessment (HNA) 2012, but Registered Providers may need to gather additional information through Local Housing Needs Surveys to ensure that rents are set at the appropriate level for the local community.
- 4.1.3 As market rents are higher than Local Housing Allowance (LHA) levels in West Berkshire, it is feasible that 80% of market rents could be equivalent to, or above, LHA levels. The Council would be concerned if affordable rents were set at the maximum local housing allowance, which can fluctuate down as well as up. Without careful management, tenants in receipt of benefit could potentially be threatened with homelessness because they cannot afford to remain in a provider's property which is suitable to their needs.
- 4.1.4 The HNA 2012 has demonstrated that, on average, affordable rents at 80% of market rent, will exceed LHA levels for 2, 3 and 4 beds in the two Broad Rental Market Areas (Newbury/Thatcham and Reading). Affordable rents for one-beds are likely to fall within LHA levels. The HNA 2012 also identifies that, in general, 80% of market rents is unaffordable and that 70% will need to be the starting point. The introduction of affordable rent is therefore most likely to impact on families, and overall, will have the greatest impact in the rural areas and in the east of the district.
- 4.1.5 The increased expense of affordable rent may act as a disincentive for some households, which could reduce demand for the product, but also limit the types of household who are willing to accept such accommodation. The Council is keen to ensure that West Berkshire remains a prosperous and vibrant community where all sectors of the community are provided with an opportunity to reach their full potential. The Council would therefore have serious concerns if providers sought to convert all of their social housing stock to affordable rent or to build new developments that do not have a mix of tenures that reflect the needs of the local community. Affordable rent will not be appropriate for all types of housing in all areas.
- 4.1.6 West Berkshire Council has consistently sought to promote and deliver rural housing schemes, particularly for the benefit of the local community and to support the rural economy. In rural communities, the supply of social housing is more limited, local wages are often low and market rents are typically higher. This means that people living in similar affordable housing to the more urban areas are paying a premium to live in the rural areas. Specialist housing developments that are restricted for occupation by local people, known as rural exception sites, often provide two and three-bedroom accommodation which has already been identified as being adversely affected by the affordable rent regime. As these are specialist

developments, that are built to meet specific and identified needs, the Council's preference would be for them to continue to be delivered for social rent to ensure that they are affordable to the communities for whom they are intended.

- 4.1.7 However, as most new affordable housing schemes depend upon HCA funding, the Council also acknowledges that affordable rent will be the preferred tenure for Registered Providers.

West Berkshire Council's Tenancy Strategy in relation to Affordable Rents

When developing their tenancy policies, we expect Registered Providers to have regard to the following:

- We encourage the retention of social rent where feasible, to protect a valuable resource for which there is high demand and already limited supply
- We expect that new developments will deliver affordable housing in accordance with the Core Strategy, and that the starting point for the tenure mix of each contribution will be 70% social rent and 30% intermediate tenures, to include affordable rent and shared ownership options, with nil public subsidy. Where alternative tenure mixes are sought, we expect to see viability information to demonstrate the need to depart from policy.
- We expect Registered Providers to take into consideration the need for mixed and sustainable communities. In particular, we expect that decisions to apply affordable rent will take into account information and evidence from the Council on its suitability in specific neighbourhoods. Registered Providers should take a strategic approach to conversion, that:
 - ~ achieves an even distribution across social housing stock to ensure a mix of rent levels is available;
 - ~ excludes high market, typically rural, areas that already have a limited supply of social rent;
 - ~ excludes adapted, supported and temporary accommodations;
 - ~ excludes social rented homes subject to a Section 106 Agreement.
- We expect that affordable rent should not reinforce long-term benefit dependency or disadvantage households living in rural areas and should reflect incomes that households could reasonably be expected to sustain without Housing Benefit. We would expect that affordable rents will be set at no more than 70% of open market value, as evidenced by the HNA 2012, and in some cases, where market rents are high and local incomes are low, at lower levels.
- We would encourage Registered Providers to link affordable rent tenancies with support for non-working households to access training and support.
- We expect that new homes on specialist developments, for example, extra care, supported independent living and rural exception sites, will be developed for social (target) rent to ensure that they are affordable for the residents for which they are intended.
- To ensure that homes remain sustainable for tenants, we expect that Registered Providers will be pro-active in setting and re-evaluating their affordable rents so that

they remain within LHA levels and for this reason, we would encourage Registered Providers to set their total rent charges (include service charges) at no higher than 95% of LHA and to take into account benefit caps.

- We expect all providers to advertise affordable rent vacancies through the Council's Choice-based Lettings scheme in the same way as social rent, to ensure fairness, accountability and transparency. We do not expect preferences for particular types of household to be set unless a Local Lettings Plan is in place.
- We expect conversions from social rent to affordable rent at the point of re-let to be in accordance with the HCA contracts and for the numbers to be shared with the Council to allow effective monitoring to take place. We do not support 100% conversions and would wish to see, as a maximum, no more than 50% conversions.
- We would not support the disposal of properties where this results in the loss of supply within the District.
- We expect Registered Providers who convert their social rented stock to affordable rent within the District to demonstrate a commitment to develop additional affordable housing within the District.
- We will not support the conversion of social rented properties to affordable rent if they are subject to a Section 106 Agreement.
- We expect Registered Providers to provide excellent advice and assistance to ensure that potential tenants are able to fully understand their housing options and whether affordable rent is an appropriate type of tenancy for them. This may include taking advice from the Council's Housing Options Team and other partner organisations in relation to specific vulnerable households.

5. Tenancies: Fixed Terms & Renewals

Background

Historically, social housing tenancies, whether assured or secure, have offered tenants a 'home for life' that can only be ended in very specific circumstances. The Localism Act has introduced 'fixed term tenancies' with the intention of making the social housing sector more flexible, more responsive to household's needs and to make best use of existing stock.

Registered Providers will be able to offer tenancies, whether at an affordable or social rent, for a minimum fixed term of five years. In exceptional circumstances, for example, where the tenancy is offered to a household as an opportunity to save for a deposit or as an incentive to engage in training, education or employment, the fixed term can be for as little as two years.

Fixed-term tenancies are being offered in addition to those already offered, including assured, introductory and demoted tenancies, and Registered Providers do not have to use them. Existing tenants cannot have their tenancies converted to a fixed-term tenancy and may be offered protection if they transfer to a new home.

- 4.2 The Council supports the use of introductory tenancies followed by fixed term tenancies in certain circumstances. Fixed term tenancies can be a useful tool to make best use of existing stock and to encourage tenants to display good behaviour and accept their tenancy responsibilities. However, they should not be used for management purposes, for example under-occupation or minor tenancy breaches, which are best addressed via other means.
- 4.3 In general, the Council would prefer to see a minimum fixed term of five years and would like to see consistency across providers so that there is not a host of different terms that have to be explained to applicants. A minimum term of five years would allow tenants to become established within, and contribute towards, their local community, and make longer term plans for their future, including employment opportunities. It would also provide more security and stability, allowing households to plan for their future, for example, saving for a deposit (to purchase or rent privately), and may provide greater incentive for tenants to invest in their homes (e.g. decorating, maintain their garden etc).
- 4.4 There are some circumstances however, for example, tenants of sheltered or extra care housing, independent supported living schemes, adapted homes or rural exception sites, where a fixed term tenancy is not appropriate. In these instances, it would be more appropriate for a lifetime tenancy to be offered.
- 4.5 Every household is unique and the Council does not believe that a blanket approach by Registered Providers would work. Consideration needs to be given the individual needs of the household when deciding the length of the tenancy and its renewal.
- 4.6 The Council's preferred approach at the end of a fixed term would be for automatic renewal (unless a major change has occurred) as this is likely to reduce tenant's concerns and insecurities and ensure that they commit and contribute fully to the community within which they live.
- 4.7 Fixed term tenancies will only be successful if housing applicants receive high quality advice and information from the Registered Provider and the Council. This inevitably means that close partnership working is key. This should start at the point of advertisement so that prospective tenants understand how long the tenancy will be for, and the circumstances in which it will or will not be renewed at the end of the fixed term. Clear and transparent appeal processes should be in place for tenancy decisions, including decisions not to renew tenancies.
- 4.8 Where a Registered Provider decided that a fixed-term tenancy should not be renewed, the Registered Provider should consider the implications of their decision in the Council's homelessness duties and should work closely with the tenant to explore real alternative housing options. Registered Providers need to take responsibility for providing advice and assistance to tenants themselves and should avoid burdening partners, including the Council's Housing Options team and other housing advice agencies.
- 4.9 West Berkshire Council actively promotes mutual exchange as a tool to make best use of existing stock and to assist tenants in resolving their housing needs. Any arrangements introduced for fixed term tenancies should not undermine the effectiveness of mutual exchanges and Registered Providers are encouraged to

clearly set out, in their Tenancy Policy, the implications to a tenant's security of tenure if they mutually exchange and to adopt policies that promote the continued use of mutual exchanges for all tenants.

West Berkshire Council's Tenancy Strategy in relation to Length of Fixed-term Tenancies and Tenancy Renewal

When developing their tenancy policies, we expect Registered Providers to have regard to the following:

Tenancy Terms

- We support the use of introductory tenancies. We do not support the use of fixed term tenancies for management purposes, for example under-occupation or minor tenancy breaches, which are best addressed via other means.
- We expect Registered Providers to offer lifetime tenancies to tenants of sheltered or extra care housing, rural exception sites, adapted homes and independent supported living accommodation.
- We expect Registered Providers to offer a minimum term of 5 years for all fixed term tenancies. If a Registered Provider expects to offer a term of less than five years in exceptional circumstances, we expect that the provider's Tenancy Policy will clearly set out the circumstances in which this applies. We also expect Registered Providers to discuss the specific scheme or allocation with us before letting it on a term of less than five years.
- We expect Registered Providers to work closely with the Council's Housing Operations team to ensure that prospective applicants are given high quality advice to ensure that they understand the terms on which the tenancy is being granted, the period for which it is being granted and the implications for their household at the end of the fixed term period.

Tenancy Renewal

- We expect Registered Providers to clearly set out the exact circumstances for when a tenancy will and will not be renewed in their Tenancy Policy and to clearly communicate this with the tenant prior to them signing their tenancy agreement.
- We do not expect Registered Providers to set blanket policies in respect of ending a tenancy at the end of the fixed term, for example, based on a fixed income level. Every household is unique and we expect consideration to be given to all aspects of the household's circumstances when considering renewal, including ill health, disability and terminal illness; need for support; impacts on children, particularly in relation to their education; impacts on the ability of the tenant or a member of their household to find or maintain employment; availability of suitable alternative accommodation within the locality.
- We expect Registered Providers to have a presumption for renewal at the end of a fixed term tenancy, unless there have been significant and material changes that need further consideration, for example:

~ the tenant's financial circumstances have significantly improved to the extent that

they could afford a different form of tenure. This does not necessarily mean that the tenant should be asked to move, but the Registered Provider could consider changing the tenure offered to the tenant.

~ *the tenant has breached the terms of their tenancy* significantly enough that possession proceedings have commenced and are likely to be successful.

~ *the tenant is now under-occupying their home*. In such cases, it is expected that the tenant will be offered an alternative home, suitable to their needs, either within the Registered Provider's own stock or with another Registered Provider.

~ *the property has disabled adaptations* that are no longer required by the current tenant or a member of their household. In such cases, it is expected that the tenant will be offered an alternative home, suitable to their needs, either within the Registered Provider's own stock or with another Registered Provider.

- We expect Registered Providers to consider the implications of their decisions relating to the ending of fixed term tenancies on the Council's statutory homeless duties and to offer high quality housing advice and assistance to help tenants to explore real alternative housing options. We do not expect Registered Providers to place excessive burdens on the Council's Housing Operations team or other housing advice agencies.
- We expect Registered Providers to provide tenants with at least six months notice if they are minded to end the tenancy and to provide the tenant with clear and adequate reasons for the decision, along with information on how they can appeal the decision. We would also expect Registered Providers to notify the Council's Housing Options Team if they serve a notice with the intention of terminating a tenancy.
- We expect Registered Providers to include their approach to mutual exchanges within their Tenancy Policy and to clearly set out the implications for tenants on their security of tenure. We encourage Registered Providers to develop policies that promote the continued use of mutual exchanges for all tenants.

5. Appeals

- 5.1 We expect Registered Providers to have a clear, transparent and accountable appeals process, that provides the tenant with enough information to make a decision on whether or not to appeal and which advises them on how to seek independent advice and representation.

Appendices

Appendix One – District Profile

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West Berkshire is a desirable and affluent area to live in, with over three-quarters of the district lying within the North Wessex Downs Area of Outstanding Natural Beauty. West Berkshire has a population of nearly 154,000 (Census 2011), of which two-thirds live in the Kennet Valley: Newbury, Thatcham, Hungerford, Theale and in the suburban areas to the west of Reading borough. However, covering an area of over half of Berkshire, West Berkshire has one of the most dispersed populations in the South East.

The housing market remains slow and the number of new houses built in the area has been low for the last 3-4 years. However, demand for housing remains high and in the medium term is expected to grow. Affordability is a significant issue for many people: there are currently around 4,000 people on our housing register and demand for housing options and advice remains high and is increasing. The impact of the recession is not purely economic and we are mindful of the potential effects of worklessness - notably amongst our young people. Being out of work places not only economic pressures on individuals and households, but may also lead to a range of social issues such as rising homelessness, family breakdown, health and crime.

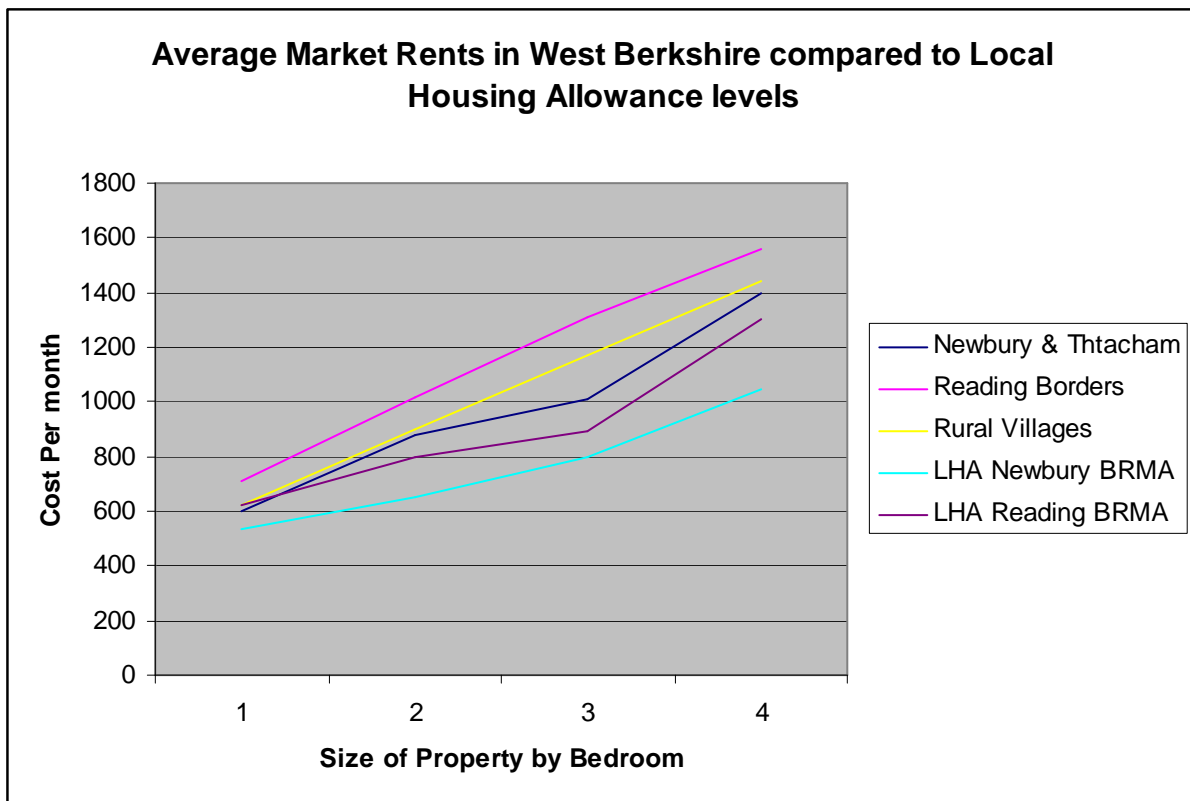
The cost of housing is high, with the average house price at £235,747 (Land Registry, July 2012), and have increased over the last three years from their slump in 2009 to a point where they are almost back at pre-recession levels. Prices in West Berkshire are significantly higher than the national average of £162,900 (Land Registry, July 2012) and the South East average of £209,532 (Land Registry, July 2012).

In 2012, the Council commissioned an update to its 2007 Strategic Housing Market Assessment (SHMA), to understand the potential impacts of the new affordable rent regime. The new Housing Needs Assessment 2012 (HNA) shows an increase in the annual shortfall of affordable homes from 560 homes a year in 2007 to 746 homes a year in 2012. The study also showed that:

- 43% of households are unable to afford to rent in the open market;
- Combining estimates of household growth with the proportion unable to rent in the open market equates to 173 new households falling into need each year;
- 720 households who live within West Berkshire are actively interested in accessing intermediate housing products (e.g. shared ownership), of which 55% can afford to access a suitably sized property within the private rented sector. 95% of these do not have savings sufficient for a deposit;
- The income required to access average market rents starts at £24,800 per annum. This would allow the household to afford an average priced 1 bedroom property to rent. This increases to £32,360 for a 2 bedroom property and £42,010 for a three-bedroom property;
- In West Berkshire, households in receipt of the full amount of Housing Benefit would be able to afford Affordable Rent set at 70% or less across the District. 80% appears to be an insufficient discount to bring rents below LHA limits in most parts of the District.

- If Affordable Rents were set in relation to the incomes of those in need (on the waiting list), rents would need to be around 40-50% of market levels to be affordable to the majority of households

5.10.2 The HNA also provides some data on private rents in West Berkshire, showing that the average rents are higher than the Local Housing Allowance levels. Combined with the buoyant market, with landlords easily able to find working tenants who do not need to resort to benefit to pay their rent, access to private rented housing for those in severe housing need is extremely limited.



Note: For Local Housing Allowance purposes, West Berkshire falls within two Broad market rental Areas (BRMA): Newbury & Reading