

## Public Affairs: briefing

# Creating a tenancy strategy suitable for your area

The Localism Act 2011 places a new responsibility on each local authority to publish a Tenancy Strategy by next January.

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### Types of permanent tenancy:

Secure Tenancy – Granted by councils. It offers indefinite residence, subject to proven breaches of tenancy grounds.

Assured Tenancy – Granted by housing associations and also offers indefinite residence, subject to breaches.

### Types of fixed tenancy:

Flexible Tenancy – The Localism Act 2011 allows councils to offer these fixed-term tenancies of a minimum of five years, or two years in exceptional circumstances.

Assured Shorthold Tenancy – These fixed-term tenancies, like those in private renting, can now be offered by housing associations to tenants of general needs social housing for a statutory minimum of two years.

This briefing will help you think about what your council's Tenancy Strategy should look like. It suggests questions to consider so you get the best outcome for your council, for local residents, and for the wider community.

Before, councils and housing associations (described collectively as social landlords) were required to let their properties on the most secure form of tenancy possible, allowing indefinite residence. Now, social landlords have the option to let properties on shorter, fixed-term tenancies. Regulations require tenancies to be for a minimum of five years, or in exceptional cases the statutory minimum of two years may be used.

Your local authority's Tenancy Strategy will help to guide social landlords operating in your area in making decisions about what types of tenancies to offer. It is important that your council's Tenancy Strategy is shaped by your vision for the community, as it will have an impact on your neighbourhood and local residents.

With this in mind, Shelter's preference is for social landlords to continue to let their homes on more secure tenancies and our advice to councils is to carefully consider the potential risks and downfalls of shorter term tenancies before making a decision.

Finally, it is worth being aware that the role of scrutinising landlord services and intervening where consumer standards are not met now falls to tenant panels, MPs, and councillors. The regulator will have a much more limited role acting only when it considers there is a risk of serious detriment to tenants. Landlord tenancy policies, informed by local authority Tenancy Strategies, will be an important means for local residents to hold landlords to account.

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**Local authorities are required to ensure that their Tenancy Strategy integrates with other strategic housing functions. This will include your allocations scheme, homelessness strategy, and (in the case of a London authority) the London Housing Strategy.**

**You should also use your strategic housing market assessment to shape your Strategy, to ensure it is based on clear and robust evidence about what is needed for your community.**

## What needs to be delivered and when?

Local authorities must produce their Tenancy Strategies by 15th January 2013. Your strategy needs to include:

- A recommendation on the type of tenancy local social landlords should grant.
- If fixed-term tenancies are recommended, then a proposal on the preferred length of tenancy, and the circumstances under which another tenancy will be granted at the end of an existing one.
- The circumstances in which different types of tenancy will be granted.

## Engaging with local partners

Social landlords are now required to publish their own clear and accessible policies on tenancies. These should take account of their local authority's Tenancy Strategy but it is not compulsory for them to do so. Therefore it is required by the Localism Act that local authorities consult with social landlords in the area before adopting a Tenancy Strategy. This will ensure that your council's recommendations have buy-in from key players and that they will be implemented across the local area.

It is also important to take a rigorous approach in consulting with other stakeholders such as tenants and local people in housing need. Liaison with other local authorities in your region on their Tenancy Strategy plans will also be beneficial in terms of promoting strategic planning across the wider region and preventing a tenancy 'postcode lottery' from occurring.

## The case for longer tenancies

We recognise that this is a difficult issue and that your Tenancy Strategy will need to be tailored to the particular demands and challenges of your local area. However, based on Shelter's experience as a housing advice provider working on the front line with tenants, we recommend that local authorities continue to grant and support permanent tenancies. At the very least, in making these decisions local authorities should be mindful of the drawbacks of shorter term tenancies.

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**The impact of introducing fixed-term tenancies on the availability of vacant homes will not be felt for some time (if at all). Fixed-term tenancies were introduced in New South Wales, Australia, in 2006 but so far less than 1% of the tenancies which have been reviewed have been terminated. The UK Government's own impact assessment shows that it could take 30 years for this policy to have any significant impact on vacancies.**

**The combined administrative costs (advertising the vacancy, processing of applications and matching people to properties) and direct financial costs (lost rental revenue, redecoration, repairs, security costs) incurred by a local authority in the process of re-letting a home which has been vacated for whatever reason amount to £2,787.**

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Our experience suggests that shorter tenancies can destabilise communities, create uncertain living situations for families, generate work disincentives, and end up costing the council and other social landlords more than permanent tenancies - all without creating additional social homes for the community. Longer tenancies are particularly vital where there are dependent children or vulnerable people in the household who will be particularly affected by insecurity or being forced to move house.

**We ask that this advice is considered in your consultation process and that the following questions are taken into account in the development of your local authority's Tenancy Strategy.**

### **1. What are the costs involved?**

- The Department for Communities and Local Government assumes that only 1 in 20 households would refuse to vacate their homes at the end of the fixed term. Shelter believes these figures are a gross under-estimate and that proceedings will be necessary in far more cases than this. Including the standard court fee of £175, we estimate a minimum total cost of possession proceedings to be £662 per case. Our research estimates the full cost of an eviction from a local authority property (including possession action) to be £1,119.
- Regulations require that if social landlords choose to let homes on fixed-term tenancies they must offer reasonable advice and assistance to tenants when the tenancy ends. Your local authority should consider how much it will cost to deliver this.
- Shorter tenancies discourage tenants from significantly investing in the upkeep of their home which can increase maintenance costs for landlords. Additionally, the frequent turnover of tenants means landlords have to invest in decorating and the general upkeep of the property more frequently.
- The shorter the tenancy, the higher the rate of tenancy turnover, which will increase the number of vacancies there are at any given time. The CLG impact assessment conservatively estimates that vacated homes will be empty for a week on average, costing social landlords between £7m and £61m over 30 years.

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**As fixed-term tenancies are unlikely to result in significantly more vacant homes to re-let you should consider whether they are worth the potential costs to your council at a time of austerity.**

**Fixed-term tenancies can discourage tenants from investing in their communities. Neighbourhoods may decline as tenants are less inclined to take pride in their homes and the surrounding area if they do not see themselves living there long-term.**

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## 2. What will the implications be for meeting housing need in your area?

With social housing being such a scarce resource you may understandably see shorter fixed-term tenancies as a means of freeing up homes, increasing provision for local people in need. But it is vital that you assess how likely this will be in your area. In reality, relatively few homes will be freed up by the use of fixed-terms, as most social tenants will not have had their financial position significantly improve through the duration of their tenancy. Home ownership will be a remote prospect for most people in this position: after a costly reassessment it is likely they will simply end up having their tenancy renewed.

**While making the best use of stock is important, building more housing is the only way to generate vacant homes on any meaningful scale.**

## 3. What will be the impact on your local community?

- **Fixed-term tenancies have the potential to undermine community cohesion.**

For example, private tenants are significantly less likely to vote or be involved in local groups and organisations than those on more secure forms of tenancy.

- **Fixed-term tenancies make tenant involvement and empowerment more necessary but harder to achieve.**

Tenants' associations have expressed concerns that new tenants will be more reluctant to join if they are on shorter tenancies. This is particularly worrying, as insecure tenure will place tenants in a weaker position in the landlord-tenant relationship, making them more reluctant to complain or hold their landlord to account. Research shows that seven per cent of insecure private tenants did nothing at all to challenge bad practice because they were scared of the consequences.

## 4. What will be the impact on tenants?

### Effects on aspiration

More secure tenancies are likely to result in settled and stable homes creating a conducive environment for a person to look for employment.

Permanent tenancies allow young people to feel settled in the same school, and not have to move when the tenancy ends. Evidence based on research in Brisbane shows that security of tenure has a positive impact on educational outcomes for children.

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Further reading:

The Localism Act 2011.

DCLG (January 2011) Localism Bill: A Fairer Future for Social Housing: Impact Assessment.

Fitzpatrick, S. & Pawson, H. (May 2011) Security of tenure in Social Housing: An International Review.

Fitzpatrick, S. and Stephens, M. (2008) The Future of Social Housing, Shelter.

Leng, G. (June 2011) Working Towards a Local Tenure Strategy, CIH.

Reynolds, L., (May 2005) Safe and secure? The private rented sector and security of tenure, Shelter.

Carlyon, T., (Jan 2012) Immediate Costs to Government of Losing a Home, Shelter.

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## Equalities and vulnerable groups

Fixed-term tenancies are likely to provoke particular anxiety in vulnerable tenants, such as people with learning difficulties, mental health problems and physical disabilities. Older people may struggle with the practical process, such as providing evidence of need, and worry about the potential outcome of reviews. Fixed-term tenancies create unnecessary and needless bureaucracy for these tenants.

Local authorities should make sure they conduct an Equalities Impact Assessment if they intend to recommend fixed-term tenancies, as it is entirely possible that this will disproportionately affect people who fall into the equalities categories.

## 5. What happens when a fixed-term tenancy ends?

**Shelter supports permanent tenancies, but if your local authority opts to grant fixed-term tenancies you can minimise the potential problems by ensuring that the tenancies offered are as long and stable as possible.**

This will involve taking a clear position on the circumstances under which tenancies will or will not be renewed. As things stand, the process tenants will undergo when their tenancies come to the end of a fixed term tend to be weighted firmly in favour of the landlord.

Tenants may not be aware of what factors have informed their landlord's decision not to renew. Many will find it difficult to successfully advocate for renewal of a tenancy or to provide proof of their need for social housing.

**The presumption of renewal of tenancy should therefore be written into Tenancy Strategies rather than left to the variances of landlord policy.**

This would shift the onus onto landlords to justify refusing to extend the tenancy, rather than requiring tenants to undergo a complicated reapplication process. This would also prevent fixed-term tenancies converting at the end by default into insecure periodic tenancies, running month by month.

**Tenants need homes, not just housing. Fixed-term tenancies can undermine this principle by making homes more insecure, but the impact of this can be greatly minimised by opting for longer term tenancies and embedding a presumed right to continue tenancies, giving tenants more certainty about their future.**

This is the shorter version of a more detailed report. For the full report please visit -

[http://england.shelter.org.uk/professional\\_resources/policy\\_and\\_practice/policy\\_library/policy\\_library\\_folder/creating\\_a\\_tenancy\\_strategy\\_suitable\\_for\\_your\\_area/](http://england.shelter.org.uk/professional_resources/policy_and_practice/policy_library/policy_library_folder/creating_a_tenancy_strategy_suitable_for_your_area/)

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