



If your local authority tenancy strategy isn't in place by April 2012, registered providers can't 'have regard' to this when formulating their tenancy policies

- Do you understand what effect fixed term tenancies could have in your local area? What about 'affordable rent'?
- Will fixed term tenancies help or hinder your plans to meet housing need and demand, and other local ambitions, and are you sure that vulnerable people won't be disadvantaged?
- Do you know what impact fixed term tenancies and affordable rents will have on your own housing advice/options service and will staff be able to explain the new housing products and services on offer to customers?
- Have you clearly communicated what you'd like registered providers to consider when they develop their tenancy and rent policies, and what action you will take to manage change?

GLHS is working with local authorities and their registered provider partners across the country to answer these questions. We're facilitating local and cross-authority consultations, providing information and training to officers and elected members, and supporting improved relationships between local authorities and registered providers. This note draws on this experience to help others shape their approach. For more information about what we do and who we work with please visit www.gilleng.co.uk and look out for our notes on tenancy policies and equalities analysis.

Tenancy strategy basics

The government has presented local authorities and registered providers with a number of choices:

- To continue to operate in the same way as now
- To offer fixed term tenancies
- To enter into the 'affordable rent' market
- To limit who will qualify to join the waiting list
- To use the private rented sector to discharge the homelessness duty
- To be more proactive in holding each other to account for decisions and action

The local authority tenancy strategy is intended to guide choices around the use of fixed term tenancies. Anticipating the enactment of the Localism Bill:

- From April 2012 all registered providers (including local authority landlords) can choose to introduce fixed term tenancies. Registered providers who have signed a HCA contract to develop 'affordable rent' homes can, if they choose, use fixed term tenancies on 'affordable rent' homes now.
- Registered providers' tenancy policies are likely to be required from April 2012. However, the local authority tenancy strategies to which tenancy policies must 'have regard' to are not required until January 2013.¹
- 'To have regard' is not defined in statute but case law suggests that it means more than a tick box exercise; registered providers should:
 - Be actively informed of the direction provided by the tenancy strategy, and
 - Be able to evidence that they have considered the content, even if they choose not to follow it, and
 - Consider the tenancy strategy every time they review their policies.

The use of fixed term tenancies will affect the affordable housing market, housing need, demand and supply. The other choices can also be expected to have an impact. Local authorities and registered providers should explore these choices and the relationships that exist between them:

¹ Assuming the Localism Bill receives Royal Assent in November 2011 and the relevant clauses are commenced in April 2012 and January 2012 respectively



- The tenancy strategy isn't required to say anything about 'affordable rent' but it is reasonable to expect that local authorities will want to provide a view on this, particularly in light of welfare reform and recession
- The waiting list and allocations policy define access to affordable housing. Changing these will affect the customer base (and knowledge of this) for the local authority and registered providers. Both will have an interest in understanding how they can best manage access to what could be a very different market place
- Local authorities are being given greater freedom to shape their areas. Registered providers are facing new and possibly greater risks to their business. Each will want a better understanding of how decisions taken by the other will affect them, and how to hold them to account.

What approach should you take?

Trying to understand the impact of so many choices in the current climate could take a lot of work. Yet many local authorities don't have the capacity to complete a thorough analysis right now. A pragmatic and proportionate approach is needed. Keep things simple to begin with and aim to provide some direction to registered providers sooner rather than later, certainly in time for April 2012. You can always refine your direction as you learn more.

As a starting point, you need to understand the opportunities and threats that are presented by fixed term tenancies (and affordable rents²) to the longer term ambitions that you've defined in your housing strategy and to the day-to-day business of providing housing information and advice, and access to housing. You should, together with registered providers and others who help respond to housing need and demand in the local area, consider opportunities and threats against the backdrop of:

- An understanding of the affordable housing market in your area (eg, how big is it, who manages it, where is it?) and the role of the market – who is it for and what does it contribute?
- The challenges to achieving your local ambitions eg, lack of affordable housing, ageing population, rising homelessness etc,
- Knowledge about prospective tenants; who is seeking affordable housing now, and who is likely to need and secure this in the next years based on past trends?
- The current framework you have in place locally to direct housing activity eg, allocations policy, homelessness strategy. Will this need to change?
- Your responsibilities under the Equalities Act 2010.

Your published tenancy strategy should communicate in simple terms the outcomes from this process and present clear statements from the local authority about what they would like registered providers to consider in their policy making, and what else they – with partners – will do to maximise opportunities and minimise threats.

You should view your tenancy strategy as a 'live' document that develops over time, informed by partnership working with registered providers and others. The housing market, need and demand do not stand still. With welfare reform and the general state of the economy, we should expect to make changes to our plans in the coming months and years. The exercise described above is a good starting point but there is a lot more you can do.

We have choices that could make a difference to our residents and communities – the least we should do is explore them.

GLHS, November 2011

² This is recommended although it is not required by the Localism Bill.