



St Albans City and District Council

Tenancy Strategy

January 2014

Contents

1. Background
2. The context
3. What are the aims of the tenancy strategy?
4. Ensuring equality of access to housing services
5. Registered providers
6. What is “affordable rent”
7. What is a “flexible tenancy”?
8. Who may be affected by the changes?
9. Overview of the 3 types of tenancy and qualifying criteria
10. How may flexible tenancies affect mutual exchanges?
11. How may succession be affected by flexible tenancies?
12. Flexible tenancies and the choice based lettings scheme
13. What happens as a flexible tenancy draws to an end?
14. The review process
15. What happens when a flexible tenancy ends?
16. Affordable rent
17. Considerations by landlords planning to utilise affordable rents
18. Letting of affordable rent properties

1. Background

St Albans City and District Council has a statutory duty under the Localism Act to produce a Tenancy Strategy. The strategy gives details of the Council's policy on the letting of all properties including those at "affordable rent" and "social rent" levels. It sets out the policy on the use of tenancy types including flexible tenancies. It also defines the circumstances under which a tenant will be offered a "Flexible Tenancy" rather than the lifetime tenancy.

This strategy applies to the Council's management of its housing stock. It should also be taken into account by Housing Association partners operating within the district. The strategy should be read alongside the Council's Housing Allocation and Homeless Policies.

We have consulted organisations representing current and future tenants and applicants and partner organisations providing social housing across the district. We have also consulted with members of the Tenant Forum and Housing Consultative Forum and the wider community.

2. The context

St Albans lies approximately 20 miles north of London and around 20% of the local working age population commutes into London on a daily basis (2011).

There are 58,899 households (C Tax Oct 2013) in the district and the most common housing tenure is owner occupied (78%). The remaining 22% is split between private sector rented (9%) and social sector rented (13%). (DCLG 2011) The Council manages approximately 5,000 rented properties and Housing Associations manage a further 2,000 rented or shared ownership properties.

Access to housing is a significant problem within the district and this is reflected in the level of affordability. Recent information from the DCLG (2012) indicates that the ratio of median earnings to median house prices in 2012 was 13.18; this means an average individual would need a mortgage of 13 times the median earnings from local employment in order to buy an average price property within the district.

There is demand for affordable housing in the district. In November 2013 there were 925 households on the list, waiting for suitable housing by SADC or its partner organisations. Of these 563 are home seekers (not currently a Council or Housing Association tenant in the district) and 362 are existing Council or Housing Association tenants wanting to transfer.

The government believes that to deal with some of these problems the housing stock can be managed more efficiently and at the same time, raise income to build more affordable homes.

It expects that changes in rents and tenancy lengths will help address this problem.

Table 1* shows current demand for housing in the district by priority banding and property size (November 2013).

		1 bedroom	2 bedroom	3 bedroom	4 bedroom+
Band A	Homeseeker	1	1	0	0
	Transfer	47	1	0	0
Band B	Homeseeker	29	16	7	0
	Transfer	56	35	7	0
Band C	Homeseeker	26	66	15	4
	Transfer	14	4	6	9
Band D	Homeseeker	261	88	34	15
	Transfer	27	39	99	18
Total		461	250	168	46

Table 1

* At the review of the Allocation Policy in June 2012 Cabinet took the decision to discontinue Band E priority

Table 2 indicates the number of lettings in the 12 month period 1st October 2012 to 30th September 2013.

1 Bedroom	Council	107
	Housing Association	43
2 Bedroom	Council	67
	Housing Association	57
3 Bedroom	Council	51
	Housing Association	14
4+ Bedrooms	Council	5
	Housing Association	0
Total		344

3. What are the aims of the tenancy strategy?

The aims of the tenancy strategy are to:-

- Clearly set out our expectations of Private Registered Providers of Social Housing who are working with St Albans District Council to supply and

manage social housing.

- Make best use of the Council's housing stock and that owned and managed by partner providers.
- Prevent homelessness and to make sure housing is available to those in the greatest need.
- Improve choice and provide clear information for local people.
- Support the Corporate Vision in contributing to a high quality of life for all residents and the Corporate Commitment to protect the vulnerable.
- Offer tenancies which meet our aims and deal with the needs of the individual household.
- Fulfill the Council's duties under Part VII of the Housing Act 1995 as amended by the Localism Act to help people who are homeless and in priority need.

4. Ensuring equality of access to housing services

The Council is committed to ensuring equality of opportunity and access to services. In order to do this we take the following steps.

- Make sure information is available in a variety of formats and languages and is given either in person or through written information.
- Make sure that people whose first language is not English or who have problems reading, writing and understanding English are not put at a disadvantage when we provide services.
- Make sure that all staff are aware of current issues related to equality of opportunity and access to services and apply this in their work.
- Check how we provide services and who we provide them to, making sure we do not discriminate against specific groups of people.
- Adapt properties where tenants or members of their family are physically disabled.

5. Private Registered Providers of Social Housing

These were formally known as Registered Social Landlords or Housing Associations. In this strategy they are referred to as "Housing Associations".

They do not have to follow this strategy but Section 150 of the Localism Act requires that Housing Associations must have regard to this strategy when preparing their tenancy policies. Whilst the Council recognises that Housing Associations are not bound by this strategy, in accordance with the Regulatory Framework for Social Housing, we would expect them to give strong consideration to its content to ensure consistency in meeting social housing needs in the district.

There are currently 4 major Housing Associations working within the district, These are North Herts Homes, Aldwyck HA, Hightown Praetorian and Churches HA and Paradigm HA. Housing Associations can set their own conditions for offering tenancies, including the type of tenancy offered and what is considered when renewing or ending it.

They can also set their own rents and decide which properties will have different rent levels. There are two types of rent level; affordable rent and social rent. Registered Providers may only set affordable rents if they have signed an agreement with the Government and use any extra money to build new housing.

Details of other Housing Associations managing and developing property within the City and District, including their tenancy policies, can be obtained via the Housing Department.

6. What is affordable rent?

The government has introduced “affordable rent” to help increase the money available to build more homes. This is at a time when grant levels to affordable housing providers has reduced.

“Affordable rent “is set at up to 80% of current market rent levels and will be the main type of new affordable housing. This rent level is higher than the current rent levels in both Local Authority and Housing Association properties but will be below private sector rents. Any extra income generated by using “Affordable rent” should be used by the landlord to build more affordable homes.

“Affordable rents” can only be charged on new build properties and a proportion of re-let properties. Other properties will still be let at “social rent levels”.

7. What is a flexible tenancy?

These tenancies have been introduced by the Government under the Localism Act and in accordance with the Regulatory Framework for Social Housing they have to be for a minimum of 2 years. The expectation is that the normal minimum will be 5 years and 2 years will only be used in exceptional circumstances. Housing Associations will not be using flexible tenancies but do have the option

of using fixed term assured Shorthold tenancies. These tenancies can be granted at either “affordable rent” or at the existing “social rent” level.

The new tenancies can only apply to tenants whose tenancy started after 1st April 2012. They will not apply to tenants who had a tenancy before 1st April 2012 unless they are granted a new tenancy in a property which is let at an “affordable rent”.

The minimum period is a 2 year tenancy but there is no maximum flexible term.

Where the tenant is new to social housing there will also be a 1 year introductory period at the beginning of the tenancy in addition to the 2 or 5 year fixed term.

The Government is encouraging housing providers to use flexible tenancies to make better use of their housing stock. The landlord must publish details of the circumstances under which the tenancy will not be renewed. Details of each landlord’s tenancy policy can be obtained via the Housing Department.

In the final year of the tenancy, the tenant’s circumstances will be looked at against the agreed criteria and the landlord will decide whether or not the tenancy will be renewed.

In St Albans District, the Council has decided that any decision to renew or end a flexible tenancy will be based on its allocations policy. This will also take into account the conduct of the tenant over the previous 2 or 5 years and whether there have been any breaches of the terms and conditions of the tenancy.

If the Council decides to end the tenancy, we will give the tenant advice on how to find suitable alternative housing.

Flexible tenancies are supported by the Council on the basis that they promote flexibility in the use of social housing and assist in the management of the housing stock. They allow us to prioritise housing for those in real housing need and respond to changes in tenants’ circumstances.

8. Who may be affected by the changes?

The changes do not apply to existing Council tenants who were granted a tenancy before 1st April 2013.. Those who became tenants after 1st April 2012 may be offered a flexible tenancy if they transfer to a Housing Association property or move to one as part of a mutual exchange.

The changes affect existing and future homeseekers if their tenancy started after 1st April 2013 and other tenants who transfer to an “affordable rent” home.

9. Overview of the types of tenancy and qualifying criteria which the Council will use.

Table 3 shows the 4 tenancy types and qualifying criteria. The Council encourages Housing Associations operating in the district to adopt a similar approach.

2 year Flexible Tenancy	5 year Flexible Tenancy	Lifetime tenancy	Other length flexible tenancy
<p>A tenant who has been housed following eviction by a Council or Registered Landlord in the last 10 years.</p> <p>An existing lifetime tenant on transfer to a property let at an “affordable rent” if the property is offered with a 2 year term.</p> <p>In some circumstances, a tenant who has broken the terms of their current 5 year flexible tenancy when the tenancy is due for renewal.</p> <p>Where a property is earmarked for demolition, redevelopment or disposal</p>	<p>The default tenancy for all tenants who do not hold a current Council or Housing Association tenancy.</p> <p>An existing lifetime tenant on transfer to a property let at an “affordable rent” if the property is offered with a 5 year term.</p>	<p>All current tenants (pre April 2013) who remain in their current home or transfer, except where the transfer is to a property let at an “affordable rent”.</p> <p>All new tenants moving into sheltered housing or elderly designated bungalows</p>	<p>Where a mutual exchange or renewal before the previous tenancy has ended, involves the grant of a new tenancy to a person who previously held a fixed term tenancy, the new tenancy will be for the remaining term of the previous tenancy, or for 2 years whichever is the longer.</p>

10. How may fixed term tenancies affect mutual exchanges?

If a tenant with a lifetime tenancy (Council or Housing Association) that commenced before April 1st 2013 wishes to exchange with a fixed term tenant (Council or Housing Association) each will surrender their tenancy and be granted a new tenancy in their property. The lifetime tenant will be granted another lifetime tenancy, the fixed term tenant will either be granted a new fixed term tenancy or a lifetime tenancy, depending on the policy of the landlord. It is the Council's policy to grant a further fixed term in these circumstances. The length of the new fixed term being the remaining period on the previous fixed term (or two years where there was less than two years remaining on the previous tenancy). Exchanges between two life time tenants or two flexible tenants will involve each tenant assigning their tenancy to the other tenant.

A tenant moving into a property which has been adapted for disabilities will need to demonstrate they need those adaptations. This should be confirmed by an Occupational Therapy Assessment.

11. How may succession be affected by flexible tenancies?

Succession occurs when an existing tenant dies and a member of their household takes over their tenancy. There is only one right of succession on a tenancy. Where a person obtains a tenancy through succession, there is no further right for that tenancy to be passed on if the successor tenant dies or wishes to move out. .

Where there is a joint tenancy, when one of the joint tenants dies and the tenancy is put into the name of the remaining tenant, this is counted as a succession.

The Localism Act has changed rights to succession for council tenants. For tenancies starting after 1st April 2012 the only statutory right of succession is for a spouse, civil partner or a person living with the tenant as if they are a spouse or civil partner. The Act grants a power to social landlords to allow further successions. The Council has decided to allow family members (as defined in Section 13 of the Housing Act 1985) to succeed where there is no statutory successor provided that family member would not be under-occupying or otherwise excluded from the Council's housing register. The council will not be using its discretion to award further successions.

If the tenancy commenced after 1st April 2012 but the tenants original council or Housing Association tenancy commenced before 1st April 2012 and has been continuous then the above provisions will not apply.

Where a family member is in occupation of a property following the death of the tenant but there has already been a succession to that tenancy, that person

would need to apply for housing in their own right in accordance with the council's allocation policy.

If a family member has a right to 'succeed' to a lifetime tenancy but the property is too large for their household, the Council will offer alternative housing that matches their housing need. In these cases the Council will offer the 'successor' a lifetime tenancy. It should be noted that Ground 16 of the Housing Act 1985 has been amended by Section 162 of the Localism Act 2011. This gives the council 12 months from the date at which they were advised of the tenant's death to find suitable alternative accommodation for a non spouse successor or take possession action.

If the successor is 'succeeding' to a flexible tenancy then the succession will be for the remaining length of that flexible tenancy. That tenancy will be reviewed at the time scheduled if the original tenant remained in the property. If the property is assessed as too large for their needs (in accordance with the allocation policy) then the successor will be obliged to move to smaller accommodation and granted a tenancy for the remainder of the term or for two years – whichever is the greater.

Where there has previously been a succession and the successor dies or gives up the tenancy, any remaining occupants will need to apply to the Council for housing. They will be housed in accordance with the Council's housing allocations policy. In some circumstances they will be allowed to remain at the property for up to 3 months while their application is assessed. The decision as to whether someone will be allowed to remain at the property pending their application will be made by the Housing Review Panel.

The council encourages Housing Associations to adopt a similar approach to ensure the most effective use of social housing.

12. Flexible tenancies and the Choice Based Lettings Scheme

Housing will continue to be advertised for letting using the current system and adverts will show the type of tenancy being offered where the tenancy type applies to the property e.g. it is earmarked for demolition or disposal.

All housing applicants will be told when a tenancy is offered what type of tenancy they are entitled to according to the criteria in Table 3, above.

13. What happens when a flexible tenancy draws to an end?

One year before the flexible tenancy is due to begin the formal review process the tenancy should be reviewed. This is so the tenant will have additional time to

remedy any breach or find a mutual exchange if the tenancy is unlikely to be renewed due to under occupation

In the final year of a flexible tenancy, the tenant will be advised by the Council that their tenancy is due for review. This review will be carried out no more than 12 months before the end of the tenancy. The Localism Act requires us to give the tenant 6 months notice that they will not be offered another flexible tenancy and to give them an opportunity to appeal.

If we decide not to renew the tenancy, the tenant will be given details of how to appeal and how to get advice and information on their housing options.

If we decide to renew the tenancy, tenants will be offered one of the following:

- a new tenancy of the same length or for shorter period at the same property
- a tenancy at an alternative property.

The tenant will be asked to surrender their existing tenancy and asked to sign a new tenancy agreement for the appropriate new tenancy. The new tenancy will be for two or five years plus the remaining term of the existing tenancy.

If the tenant refuses to do this they will be served notice that their tenancy will not be renewed.

If we decide to offer another flexible tenancy at a different property, the tenant will be able to bid under the Choice Based Letting system. If necessary we will assist with bidding.

We will serve notice on the tenant that we will not be renewing their tenancy and expect the tenant to move before the end of their current flexible tenancy. When they move, any remaining term on their existing tenancy will be added to the new tenancy.

Up to three properties will be offered under Choice Based Lettings and if the tenant does not accept the final offer they will need to seek their own alternative housing.

We expect that the tenancy will end either by mutual agreement (and transfer where appropriate) otherwise the council will seek possession in the County Court as provided for in the Act.

The council recognises that it is for private registered providers to adopt their own policies but we recommend that they adopt a similar approach to the one above.

Table 4 Criteria for consideration when reviewing a flexible tenancy

Circumstances	Outcome
Is the tenant under-occupying by 2 bedrooms or more?	If under-occupying, their tenancy will not be renewed at the current property
Is the household income more than 25% above the level at which we would accept them on the housing register?	If the income (including unearned income) is above the Council's qualifying level*, the tenant will need to make alternative arrangements to meet their housing need. They will not be offered another tenancy but will be offered housing advice.
Is there a current breach of tenancy?	If the answer to this question is yes then there are two scenarios. If the tenant has not done anything to resolve the breach, then the tenancy will not be renewed. If the tenant has taken consistent action**to resolve the breach then a two year flexible tenancy will be granted. Details of any arrears on the current tenancy will be included in the new tenancy agreement and details of a repayment arrangement will be set out.
Does the property have extensive adaptations for the tenant?	If so the tenancy will usually be renewed even if the above criteria are not met
Is there a valid court order or injunction against the tenancy?	If there is a valid court order or injunction against the tenancy then the tenancy will not be renewed. In these circumstances granting a new tenancy will render the court order invalid.

*In 2013-2014 the income level for acceptance on the Housing register is as follows:

One bedroom property	£34,370
Two bedroom property	£39,810
Three bedroom property	£49,860
Four bedroom property	£60,000

This will be increased each year (April) in accordance with the rate of increase of the CPI in the preceding September.

****The tenant has kept to the terms of any agreement to repay rent arrears for 26 weeks at the point of review or there have been no complaints of Anti-Social Behaviour for 26 weeks or they have commenced action to remedy the breach if it relates to the condition of the property or garden. Any other breaches will be considered on an individual basis.**

In respect of Anti-Social Behaviour a decision as to whether this should be taken into account when renewing the tenancy will be made on the basis of probability and will be in full consultation with the Community Protection Team. It will only be used when there is serious and sustained breaches of the tenancy and the tenant will already have been made aware of the risk to their tenancy and other actions have been tried and failed to resolve the problem.

14. The review process

Under the Localism Act landlords are required to give the tenant the right to appeal a decision made at tenancy review. The initial appeal will be to Housing Review Panel. If the decision not to renew the tenancy is upheld by the Panel the tenant will have the right of appeal to a panel comprising Councillors.

Tenants will be given details of how to appeal when the review is carried out.

Comment [j1]: Agreed at LSS 7/11/13
Involving tenants to be confirmed or otherwise at Cabinet taking into account the views of the Monitoring Officer

A tenant or applicant can challenge the following:

1. The length of flexible tenancy to be offered – but only on the basis that the length of term offered does not match with the Council's policy
2. A decision not to grant another tenancy when the current flexible tenancy ends.

15. What happens when a flexible tenancy ends?

The Council or Registered Provider has a duty to provide advice to tenants when a flexible tenancy is ended.

If a flexible tenancy is to be ended by either the Council or a registered provider then the Strategic Housing Service at the Council must be informed at least 6 months before the tenancy is due to end, at the same time as the tenant is formally notified.

We expect that when a flexible tenancy ends the tenant will not be entitled to housing by the Council as homeless and the landlord will prevent this by helping with a transfer to alternative accommodation where appropriate. Any concerns by the tenant or the landlord can be referred to a Housing Options Officer when the tenant is informed of their position.

The Council's Housing Options and Prevention Officers will give advice on:

- Low cost home ownership options
- Intermediate rented properties
- Private rented accommodation

They can also help tenants get advice from other organisations, for example money advice and tenancy rights from the Citizen's Advice Bureau or Shelter.

16. Affordable rent

At the moment the Council does not intend to let properties at "affordable rent" levels. This position may change if the Council decides to build new rented properties in the future.

We expect that some registered providers will consider letting properties in the district at "affordable rent" levels of up to 80% of market rent (including service charges).

Housing Associations will be asked to prioritise development of new housing in the district using the additional income raised from affordable rent where it is applied across the district.

17. Considerations by landlords planning to utilise Affordable Rents

The Council asks registered providers to take the following into consideration when setting Affordable Rents".

1. The impact of the benefit cap and introduction of Universal Credit. The Council does not want the rent level including service charges to exceed the Local Housing Allowance level and be unaffordable for tenants who are dependent upon benefits.
2. When assessing expressions of interest for redevelopment on council owned land by registered providers we will give preference to schemes where any proposed development offers properties at social rent. If "Affordable Rents" are to be used we would prefer these not to exceed 60% of open market rental values. Housing Associations and private developers will be made aware of this and will need to take this into account when redeveloping in the district.
3. If the property is let with extensive disability adaptations (i.e. costing in excess of £3,000) and is suitable for a disabled person it should not be let

at an “Affordable Rent” and should be prioritised for an applicant who requires those adaptations.

4. Larger properties of 4 bedrooms or more should be let at an affordable rent which is not more than 15% higher than the affordable rent for a 3 bedroom property. This is because the occupants could at some point have their benefits restricted by the benefits cap.
5. It is up to the landlord to ensure it complies with any legal requirements arising from its agreement with the Homes and Communities Agency on “Affordable Rents”.
6. Where “Affordable Rents” are used within the district, the funds raised should be prioritised for the development of new housing within the district.

18. Letting of Affordable Rent properties

We expect that Registered Providers will let their “Affordable Rent” properties in accordance with their policy on flexible (or fixed term) tenancies and when they are advertised through the Choice Based Letting scheme, they will clearly indicate the level of rent and service charges.