

South Tyneside Tenancy Strategy 2023

Introduction

1. This updated strategy sets out the Council's position for 2023 onwards. It provides the basis for action on our own housing stock while also giving a steer to other Registered Providers¹ operating in South Tyneside, so that their individual tenancy policies and practices for letting their affordable housing stock meet local housing needs, improve the overall operation of the local housing market, and foster sustainable communities. Registered housing providers are legally required to 'have regard to' the tenancy strategy but are not bound by it and may in the end adopt a different approach when drawing up their own policies. Notwithstanding this all Registered Providers active in the borough have been consulted in the development of this strategy.
2. The Localism Act 2011 introduced a requirement for local authorities to produce a Tenancy Strategy. This document updates the Tenancy Strategy the Council published in January 2013. The Localism Act describes that a Tenancy Strategy must set out matters which all Registered Providers of social housing in the borough must consider when developing their tenancy policies:
 - The types of tenancies they will grant.
 - The circumstances under which different types of tenancies will be granted.
 - Where they elect to grant fixed-term tenancies, the length of the fixed term.
 - The circumstances in which they will grant a further tenancy when the fixed term expires².
3. Although not an explicit expectation of the Localism Act, this Tenancy Strategy also sets out the council's view on the use of the affordable rent product in the borough.
4. Revising this Strategy involved extensive consultation, we specifically consulted with all Registered Housing Providers in South Tyneside and residents.
5. The formal consultation ran from 27 January 2023 to 10 March 2023. The consultation ran for six weeks from 27 January to 10 March 2023. The consultation was via our consultation 'have your say' webpage and included a short multiple-choice survey. A link to the survey and draft Tenancy Strategy was also sent via email to registered providers in the borough. A draft was also discussed with Officers at South Tyneside Homes. Any feedback we received was used to amend the draft Strategy.
6. This Strategy has been developed to complement both the Integrated Housing and Homelessness Strategy, plus the Allocations Policy.

Aims of the Tenancy Strategy

7. The key aims of this Tenancy Strategy are:
 - To fulfil the council's legal requirements.
 - To set clear expectations for registered providers operating in the borough.

¹ Registered providers are providers of social housing that are registered with and regulated by the Regulator of Social Housing.

² <https://www.legislation.gov.uk/ukpga/2011/20/part/7/chapter/2/crossheading/tenancy-strategies/enacted>

- To ensure a consistent approach by registered providers in offering tenancies which are suitable for the purpose of the housing and the needs of the individual households.
- To make the best use of the borough's social and affordable housing stock.
- To create and maintain successful, sustainable communities.
- To ensure our social and affordable housing meets the needs of our residents and rent levels do not deter people from accessing employment.
- To prevent homelessness.
- To be transparent and easily understood by customers, stakeholders, and registered providers.
- To protect and provide stability for vulnerable people.

Strategic Context

8. South Tyneside is home to approximately 72,081 homes. Census data tells us that 58.2% of occupied dwellings are owner-occupied, 11.1% are private rented (including tied accommodation and student housing) and 30.7% are affordable (including social rented from the Council or housing association and shared ownership homes).
9. A high proportion of our population rely on an element of housing benefit to pay their rent; at the time of writing, statistics show that there were approximately 19,014 people in receipt of housing benefit in the borough.
10. Our Vision commits us to making South Tyneside ***a place where people live healthy, happy, and fulfilled lives.***
11. It identifies five key ambitions for the residents of the borough to support our households to be:
 - (i) *Financially secure*
 - (ii) *Healthy and Well*
 - (iii) *Connected to Jobs*
 - (iv) *Part of strong communities*
 - (v) *And we are committed to targeted support to make things fairer.*
12. This Tenancy Strategy will help us deliver these outcomes, ensuring that our communities are sustainable, and housing meets the needs of our current and future population.

Background

13. Following the introduction of the Housing Act 1985, social housing tenants were offered an Assured or Secure Tenancy, which granted them a home for life. Flexible (also known as 'fixed term') tenancies were introduced as part of the Localism Act 2011 with the aim of helping registered providers to make best use of their stock and respond to changing housing needs.
14. Registered providers may still offer Introductory/Starter, Secure and Assured tenancies; flexible (fixed term) tenancies are simply an additional tool to make best use of the housing stock. The Council is keen to ensure that the different types of tenancies are used in most appropriate circumstances to support sustainable communities and ensure that vulnerable tenants are provided with the level of stability they need.

15. The social housing sector has a very important role to play because it provides accommodation for those who cannot access market housing (either for rent or sale) and are therefore in need of affordable housing, or for those who require specialist accommodation.
16. It is the opinion of housing and homelessness charities that local authorities should continue to grant and support 'lifetime' tenancies in most circumstances.

Types of tenancies

17. The main forms of tenancy agreements offered by **Local Authority Registered Providers** such as South Tyneside are:
 - Introductory tenancies - offered to most new tenants; after twelve months tenants either become Secure or Flexible (fixed term) tenants (unless eviction action is being undertaken or the introductory tenancy has been extended by a up to a further six months).
 - Lifetime Secure Tenancies - these agreements allow a tenant to live in a home for the rest of their life, providing they do not break the tenancy conditions.
 - Fixed term Secure tenancies (used in limited circumstances) - introduced by the Localism Act 2011 for a fixed period, usually for at least five years, but for a statutory minimum of two years.
18. **Private Registered Providers** offer a wider range of tenancy and occupancy agreements, the main ones are:
 - Assured tenancies - agreements allow a tenant to live in the home for the rest of their life, providing they do not break the conditions of the tenancy.
 - Starter/Introductory Tenancies - these may be offered to new tenants, after twelve months tenants either become Assured or Fixed Term tenants (unless eviction action is being undertaken or the introductory tenancy has been extended by up to a further six months).
 - Fixed term tenancies (used in limited circumstances) - these are for a fixed period, usually for at least five years, but for a statutory minimum of two years.
19. The Domestic Abuse Act 2021³ requires local authorities and private registered providers of social housing to ensure that victims of domestic abuse who have a lifetime tenancy, or who have had a lifetime tenancy and have fled the social home to escape domestic abuse, retain their lifetime security of tenure if the landlord grants them a new tenancy for reasons connected with the abuse.
20. The Council **does not** support the introduction of fixed term tenancies as the universal tenure for new tenants of social housing. People should not be in fear of losing their home if their circumstances change or improve as this could lead to a disincentive for people to gain employment or invest in their home and community.
21. The Council supports the use primarily of introductory/starter tenancies followed by 'lifetime' tenancies. **'Lifetime tenancies' are the preferred tenancy type for most tenants and for delivering successful, sustainable communities.** All registered

³[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089015/Domestic Abuse Act 2021 Statutory Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089015/Domestic_Abuse_Act_2021_Statutory_Guidance.pdf)

providers must take account of this when developing their tenancy policies and set 'lifetime' tenancies as their prevailing tenancy when operating in South Tyneside.

22. Registered providers should offer the most secure form of tenure compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.
23. The next section describes some of the limited circumstances when it may be appropriate to grant fixed term tenancies.

Use of fixed term tenancies in limited circumstances

24. We accept that in some situations, fixed term (sometimes referred to as 'flexible') tenancies can be appropriate and will help make best use of the affordable housing stock. **Fixed term tenancies provide the opportunity to offer housing to households on the basis that the tenancy is not intended to provide a permanent housing solution.** For example, the following are some circumstances when fixed term tenancies can be offered:

- Where a property is part of a leasing arrangement and is not in the ownership of the registered provider/Council and may need to revert into private ownership.
- Where empty or void properties are being used as a housing solution for applicants for a fixed term until a property can be developed, refurbished, or regenerated (to avoid a future decant).
- Where a home contains significant adaptations that meet needs of an applicant. Adapted homes are in short supply. It is desirable that adapted properties are lived in by those requiring adaptations.
- To make an offer of accommodation to someone who has lived with a tenant who has died, but they are not entitled to succeed to a tenancy. This will provide them with some transitional protection to overcome their bereavement where they are likely to be able to meet their own housing needs in the longer term.
- To provide accommodation to applicants who have too much equity/savings/assets to be eligible for social housing but who are unable to access this due to their current circumstances (e.g. relationship breakdown).
- To provide accommodation for applicants who have a time-limited right to rent or remain.
- To allow lettings for management reasons such as those for tenants moving into properties to allow emergency works to be carried out in their existing home.
- To complement a government scheme (e.g. Rent to Buy).
- Other exceptional circumstances (case by case basis).

25. However, vulnerable people in need of settled or stable accommodation, where their situation is unlikely to change, should be granted permanent 'lifetime' tenancies.

The use of fixed term tenancies is regarded as inappropriate for certain vulnerable groups, and they should be offered a lifetime tenancy:

- Those with an identified learning disability or lifelong physical disability.
- Those with evidenced severe and enduring mental health needs.
- Those in long term supported/specialist housing.
- Households with a long-term medical or welfare need for secure accommodation.
- Victims fleeing domestic abuse.
- Those moving into sheltered or extra care schemes.

26. In addition, fixed term tenancies should not generally be used to control rent arrears or anti-social behaviour; the usual possession grounds should be used to tackle these issues. If there were breaches within any tenancy a formal legal route would need to be followed to repossess the property.
27. In all cases, South Tyneside Council or registered providers will issue the customer with a tenancy agreement for their new home; this is a legal agreement between the landlord and the tenant, which sets out the rights and responsibilities of both parties.

The length of fixed term tenancies

28. Where fixed term tenancies are used, we expect the minimum duration to be 5 years (or exceptionally, a tenancy for a minimum fixed term of no less than two years) excluding any 12-18 month introductory or probationary period.
29. We encourage providers to consider basing the duration of fixed term tenancies on the needs of a household.
30. Whilst it is expected that the 'norm' for tenancies will be five years, there are circumstances where terms longer than five years should be available for example:
- Households who have school-aged children attending school or temporarily living away from home, the length of the fixed term should consider the age of the youngest child and provide fixed terms until the child reaches 18 years of age.
 - Those living in adapted properties or those with a support need that is long-term but not necessarily lifelong.
31. Each case should be assessed according to the individual circumstances such as ages of children, nature of vulnerability and tailor the length of tenancy to the circumstances of the customer.
32. If a provider wishes to grant a tenancy shorter than 5 years, this should be an **exception** and agreed with the Council.

Renewing a fixed term tenancy

33. Landlords must set out clearly in their individual Tenancy Policies the circumstances under which they make tenancy decisions.
34. When making the decision whether to renew or not, housing providers must consider:
- The household composition, especially where the household includes children of pre-school age or in full-time education, with the recognition that children stay with their parents beyond school age for various valid reasons. These should be considered on an individual basis and should include children who are temporarily living away from home e.g. rooms might not be 'spare' if children are away at university.
 - The circumstances in which the tenancy was originally offered, such as vulnerabilities (e.g. fleeing domestic abuse, under a witness protection programme, was a person leaving Local Authority care or has mental health problems) and whether the household is still classed as being vulnerable.
 - If the home has been adapted to meet the needs of a disabled person and that person still resides in the home and continues to need 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.
 - Whether the tenant can continue to afford the rent with any benefit deductions and the demand and stability of the area.
 - Health needs of household members, especially 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.
 - Whether the tenant is engaged in anti-social activities.
 - Whether the tenant is in breach of the tenancy conditions e.g. property neglect or rent arrears.
 - Whether the main tenants' circumstances still qualify for the property based on the South Tyneside Council's current Allocations Policy.
35. We expect tenancies to be renewed at the end of the fixed term unless there has been a material change in circumstances affecting the household's suitability for the home or the homes suitability for the household. Usually, fixed term tenancies should be renewed if, for example:
- The tenant's circumstances remain the same.
 - The tenant still has a need for the type of property they are currently occupying.
 - The tenant is not under occupying, or the property is not overcrowded.
 - Any adaptations that have been made to the property are still required.
 - The terms of the tenancy have not been breached.
36. It is essential that landlords clearly communicate their tenancy renewal terms in their Tenancy Policies and make sure that when new tenants are offered fixed term tenancies, they understand what will lead to the tenancy being renewed or terminated.
37. Housing providers should usually review tenancies 6-9 months before the end of the term of tenancy. Housing providers should seek to renew the tenancy unless there are specific grounds not to do so, these grounds must be clearly set out and published in a housing provider's Tenancy Policy and/or Allocations Policies and must include details of how to appeal against decisions.
38. If a decision is made not to renew a fixed term tenancy, housing providers are expected to provide a robust programme of support, advice, and assistance (*see 40-42 below*).
39. We expect that at least six months' notice must be given to the tenant before the tenancy is due to end. The tenant should be advised of their right to request a review of the proposal and of the time within which this request needs to be made.

Advice and assistance

40. It is essential that should a fixed term tenancy review end with a decision that a tenancy should not be renewed, proactive support and assistance is put in place to enable the tenant to search for and secure suitable and affordable alternative housing options. This aspect may have a cost implication and housing providers should give due regard to the cost of issuing fixed term tenancies.
41. The council also expects to be notified about any potential non-renewal cases and details of the advice and assistance that has been offered to help the tenants find a new home.

42. Registered providers operating in South Tyneside should be aware of their obligations to assist us in exercising their duties towards those who are homeless or threatened with homelessness. We would, therefore, expect to see an emphasis on reducing the risk of homelessness when decisions are made not to renew tenancies and a robust housing options process in place to ensure that all available options are considered with the affected tenant(s) at an early stage in the review process.

Tenancy Policies

43. Registered providers should develop Tenancy Policies which should cover:
- (a) The type of tenancies they will grant.
 - (b) Where they grant tenancies for a fixed term, the length of those terms.
 - (c) The circumstances in which they will grant tenancies of a particular type.
 - (d) Any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period.
 - (e) The circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property.
 - (f) The way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term.
 - (g) Their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability.
 - (h) The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.
 - (i) Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.
44. The Council expects all registered providers in South Tyneside to publish their Tenancy Policies on their websites and make copies available free of charge to anyone who might request a copy.

Affordable Rent

45. Affordable Rent accommodation can be let at up to 80% of local market rents.
46. This contrasts with social rented housing; social rents are sub-market rents set through the national rent regime in England. It is important that tenants and prospective tenants understand the difference between affordable and social rents.
47. All rents must be set in accordance with the Regulator of Social Housing's rent standard and associated guidance.
48. Affordable Rent accommodation can be offered as a lifetime tenancy or a flexible tenancy in limited circumstances.

49. Registered providers that signed development contracts with Homes England and receive grants are required to charge Affordable Rents; this includes South Tyneside Council. When setting rents, registered providers are asked to consider the local market context (including the relevant Local Housing Allowance) and wider Benefits' policy.
50. We are aware that several registered providers deliver new build affordable rent properties in the borough and some convert some of their existing stock into affordable rent.
51. We ask that registered providers operating in the borough take significant notice of the prevailing low-income levels and reliance on welfare benefits in the borough, plus our aims to encourage and support people back into employment and our desire to deliver mixed and sustainable communities.
52. All registered providers in the borough proposing Affordable Rent should be able to evidence an understanding of how their products will meet our residents' housing need and have clear policies for ensuring tenants are not trapped into benefit dependency. We also expect registered providers to ensure that tenants have access to appropriate financial advice and support.
53. Registered providers with Homes England contracts are also able to introduce Affordable Rent on a proportion of their relets, otherwise known as 'conversions'. Some properties are subject to Section 106 agreements, leases, covenants, or nomination agreements, so this may not be possible in all cases. The Council is, therefore, unable to give a blanket agreement to conversions from social rent. Conversions will therefore be considered on a case-by-case basis.

Monitoring and review of the strategy

54. This Strategy has been developed and reviewed following consultation with registered providers and residents.
55. Any major revision to the Strategy will be considered in consultation with all relevant parties, who will be given a reasonable timescale to respond and comment as appropriate.
56. In reviewing this strategy, we considered several factors including:
 - Housing needs information.
 - Homelessness information.
 - The effectiveness of the allocations policy.
 - Rent levels across tenures.
 - Delivery of new homes, including rent levels and types of property.
 - Impact on site viability.
 - Income and welfare dependency in the borough.
57. This Strategy will be regularly reviewed and monitored by the Housing Strategy Team and this will be built into our work programme for an annual review.

Equality Impact

58. In developing this strategy, we have considered the potential impact of our policy approach for current and future residents of South Tyneside; we feel that lifetime tenancies are the best form of tenancies for most residents.

59. If providers do choose to use fixed term tenancies it will be extremely important that prospective tenants are clearly informed when a fixed term tenancy is being offered, information and advice needs to be accessible in a range of formats and languages and where necessary extra support given to residents that are offered these tenancies, particularly near the end of the tenancy to help them find alternative accommodation where necessary.

Compliance

60. In order to ensure compliance under current legislative duties and regulatory standards this strategy has set out:

- a. **The types of tenancies that the council will expect all Registered Providers to grant.** The strategy sets out the variety of possible tenancies that can be offered and is clear in the council's support for primary use of starter tenancies followed by 'lifetime' tenancies. It is expected that the most sustainable and secure tenancy will be offered to residents; specifically protecting specific vulnerable individuals.
- b. **The circumstances under which different types of tenancies will be granted.** The strategy clearly sets out when and why other tenancy options may be considered (for example a fixed-term tenancy) and which groups should be protected.
- c. **Where they elect to grant fixed-term tenancies, the length of the fixed term.** The strategy sets out the expectation for Registered Providers to offer at least a 5-year minimum tenancy where a fixed-term tenancy is appropriate. However, where there are specific circumstances, such as children of school age, the minimum period should be longer.
- d. **The circumstances in which they will grant a further tenancy when the fixed term expires.** The strategy clearly states the process that would be expected when reviewing and renewing a fixed-term tenancy to enable transparency and fair access to social housing in the borough.