

Camden Council Tenancy Strategy consultation

November 2012

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1. Introduction

Since April 2012, the Council and private registered providers have been able to manage social rented housing, including 'affordable rent' homes in different ways. There are choices to make and these need to be made carefully, taking into consideration the aspirations set out in the newly published Camden plan and the housing needs and aspirations of our residents.

In order to assist registered providers in making those choices at a borough level, Section 150 of the Localism Act 2011 requires local authorities to prepare and publish a tenancy strategy, setting out the matters that **the registered providers of social housing for its district are to have regard to in formulating policies relating to:**

- the kind of tenancies they grant;
- the circumstances in which they will grant a tenancy of a particular kind;
- where they grant tenancies for a fixed term, the lengths of the terms;
- the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

2. Aims of the tenancy strategy

The key aims of the council's tenancy strategy are to:

- fulfil the council's legal duties as set out in the Localism Act 2011;
- set out clear expectations for registered providers operating in the borough;
- prevent homelessness;
- make the best use of the council's housing stock and wider social housing in the borough;
- offer tenancies that are in the interests of the individual households occupying homes;
- create and maintain sustainable and diverse communities.

3. Housing context in Camden

3.1 Housing supply

- There are 36,400 social rented homes in Camden, around one-third of all homes in the borough.
- The Council owns 23,500 of these homes.
- There are 52 registered providers in Camden managing 13,000 homes.

Table 1: New affordable housing completions (general needs and intermediate housing).

Year	Gross units
2007/8	211
2008/9	245
2009/10	207
2010/11	231
2011/12	232

3.2 Housing demand

- There are currently over 25,000 households registered on the council's housing needs register. Approximately 50% of these have one of the forms of housing need prioritised by law and the council's allocations scheme.
- Almost 5,400 applicants (over 20%) on the council's housing needs register are overcrowded.
- Records indicate that at least 10% of housing association tenants who claim Housing Benefit are under-occupying by one or more bedroom.
- At least 4,000 council tenants claiming housing benefit are under-occupying and 68% of four-bedroomed council homes that have been occupied by the same tenant for at least 15 years are under-occupied.

- Ninety-four housing needs register applicants are in need of fully wheelchair-accessible accommodation. Thirty-four per cent of these households – among whom those in need of larger homes are disproportionately represented – have been waiting for wheelchair accessible accommodation for five years or longer.
- More than two-fifths of council and housing association homes are studio flats or have one bedroom. This limits the capacity of social housing in the borough to comfortably accommodate families.
- Average lengths of tenancies are 9.25 years for housing association tenants and 10 years for Council tenants.
- Of the 400 respondents to a 2011 survey on the top three priorities for the Council as a strategic housing authority, 36% suggested freeing up larger social rented homes and 25% suggested tackling severe overcrowding, making these respectively the fourth and fifth highest rated priorities.

3.3 Rents in Camden

Table 2: Average housing association and council rents (per week), as at 1 April 2012.

	Studio	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms
Housing association	£78.56	£98.78	£111.66	£126.60	£144.30
Council	£64.48	£81.92	£94.21	£106.15	£117.76

- The average cost of privately renting a two-bedroomed property is £445 per week (Valuation Office Agency, 12 months prior to March 2012).
- This means an 'affordable rent' of up to 80% of market rent could be £356 per week or more for a two-bedroomed property.

Consultation questions for sections 1, 2 and 3 of the draft tenancy strategy

1. Is the purpose of this document clear?
2. Is the key housing information clear and familiar to you?
3. Does it tell you enough to help you to understand what the housing market looks like in Camden?
4. If not, what further information would you like to see?

4. Fixed-term tenancies

4.1 Background

The Localism Act 2011 enables private registered providers to consider letting homes for a fixed term to new tenants, as opposed to those who held existing assured or secure lifetime tenancies prior to April 2012. The new fixed-term tenancies should be set at a minimum of five years, but the Localism Act 2011 does allow for two-year tenancies in exceptional circumstances.

4.2 The Council's tenure policy

The Council has carefully considered the use of fixed-term tenancies in its own stock and has made a decision not to use fixed-term tenancies. Some of the reasons for this are summarised below.

The Council supports getting the best out of existing assets. It is committed to tackling overcrowding and to encouraging tenants to occupy the size of home that they need. This can be challenging, in part because 40% of council stock is one-bedroom or bedsit homes. However, it is the view of the Council that there are processes and incentives in place to achieve right sizing. For example, an under-occupation strategy includes a new package of incentives for under-occupiers. Another example of innovative ways to tackle overcrowding is the creation of homes from 'dead space'. The Council recently created three 'rooftop homes' by extending two existing one-bedroomed flats to create two three-bedroomed flats and creating a third brand new three-bedroomed flat.

Harnessing and maintaining stable, connected and diverse communities was an important factor when the Council considered the use of fixed-term tenancies. The Council will continue to issue introductory tenancies for new tenants followed by secure lifetime tenancies.

4.3 Council guidance to private registered providers

The Council acknowledges that the decision on whether to use fixed-term tenancies and, where they are used, the length of these tenancies, lies with the private registered provider.

When considering the use of fixed-term tenancies the Council asks that private registered providers have regard to the following:

- tenants should be consulted on use of fixed-term tenancies;
- strategies to maximise use of the stock, e.g cash incentives and help to move, should continue to operate and be resourced, and fixed-term tenancies should not be seen as the only solution. The Council asks that private registered providers review and strengthen their support and incentives to facilitate downsizing;

- families, particularly those with children under school age, will need security and the opportunity to put down roots to secure school places and networks of support. Therefore tenancies should be of sufficient length to facilitate this. A five-year tenancy for a family with children under school age may not be sufficiently long for them to achieve stability and security;
- the Council prides itself on the diversity of its communities: diversity of income, race and religious belief. This is demonstrable across the borough and also within its social housing stock. Policies that may disincentivise tenants to 'do well' could have a damaging effect on the diversity of communities. Securing higher rental income or offering shared ownership to those who are able to afford it may enable households to stay in the community.
- adapted and accessible properties are in demand and should be put to their proper use and made available to those who need them. The Council recognises that the review mechanism within fixed-term tenancies can provide a useful mechanism to recycle these valuable properties. However, it is not the only tool available. Detailed record-keeping of properties and a database of different levels of accessibility (using the London Accessible Housing Register) is key to ensuring that these homes are being appropriately allocated.
- Where accessible homes are no longer needed, tenants should be relocated to suitable properties.

4.4 Expiry of the fixed-term

The Council expects registered providers to set out clearly within their tenure policy how frequently a fixed-term tenancy will be reviewed and the nature of the review, including what factors will be considered.

Where tenancies are renewed, the Council would expect them to be renewed for no less than the length of the initial term.

In terms of tenancy conduct, it is important that the review of the fixed-term tenancy is not used as an alternative to the usual remedies available to address breaches of tenancy conditions. On that basis, the Council would not expect a landlord to decide not to renew a fixed-term tenancy due to the way the tenant has conducted the tenancy.

In line with the legislation, the Council expects that tenants who have had a review of their tenancy will be given at least six months' notice if the provider intends to end the tenancy and that adequate reasons for the decision to end the tenancy are given, with information on the right to appeal the decision.

The Council would also expect providers to notify the Council's Housing Options Team at the earliest opportunity of the decision to end the tenancy. Given the role of the Council in the prevention of homelessness, it is expected that registered providers allow a tenant to remain in their property at the end of the tenancy until a suitable alternative has been found.

4.5 Use of assured tenancies

The Council expects lifetime assured tenancies to be offered to new tenants of sheltered and extra-care housing schemes, which are usually let to older tenants where circumstances are unlikely to change.

In addition, the government has been clear that the security of tenure of social housing tenants (both secure and assured) whose tenancies commenced prior to the date of the implementation of the Localism Act 2011 (1 April 2012) will retain their security of tenure on transfer.

The framework states that the only exception is where an existing tenant chooses to move to an 'affordable rent' home.

Mutual exchanges

Sections 158 and 159 of the Localism Act contain new provisions that enable secure and assured tenants to swap their tenancies with a flexible tenant, while ensuring that they do not lose their security of tenure.

4.6 Introductory and starter tenancies

Many registered providers make use of introductory and starter tenancies. The Council supports the use of introductory and starter tenancies, in particular for new tenants. However, it does not support the issuing of a starter tenancy to an existing tenant of social rented housing, who has moved as a result of a transfer, unless it can be demonstrated that there is a poor record of tenancy management on their part.

4.7 Advice and assistance

The Council expects private registered providers to provide tenants with appropriate advice and assistance about their housing options at the time they conduct a fixed-term tenancy review and at the point any decision is made that a tenancy will not be renewed.

When a fixed-term tenancy is reviewed, private registered providers should assess tenants' circumstances in the context of the available housing options and explore these with them. Private registered providers should have particular regard to their duty to cooperate with the Council to prevent homelessness.

Consultation questions for Section 4 on the draft tenancy strategy

5. Is the council's position on fixed-term tenancies clear?
6. Is the council's preference for not using fixed-term tenancies in its own stock clear?
7. Is our guidance clear on what we expect private registered providers to have regard to when considering whether to use fixed-term tenancies?
8. Is our guidance clear on the length of fixed-term tenancies?
9. If fixed-term tenancies are to be used, are there any factors that you think should be taken into account when deciding on length and terms?
10. Are there any particular groups of people for whom you think fixed-term tenancies might be suitable?
11. Are there any groups of people for whom you think fixed-term tenancies would not be suitable?
12. What do you consider to be the main purpose of you introducing fixed-term tenancies – e.g tackling under-occupation?

5. Succession

5.1 Background

Whilst the Localism Act 2011 does not require a Tenancy Strategy to provide advice on succession, the Council has taken the opportunity to offer some advice in the interests of preventing homelessness and maintaining strong communities.

Some groups of people have a legal right to succeed to a social housing tenancy in the event of the tenant's death, provided that they meet requirements set out in law.

For housing association tenants with assured or fixed-term tenancies, a tenant's spouse, civil partner or – in line with a provision of the Localism Act that came into effect on 1 April 2012 – any other resident partner has this right. (A wider range of people have been able to succeed to local authority tenancies, although the Localism Act reduced this group, so that, for new tenancies, only partners are entitled to succeed.)

Private registered providers often have policies that allow those with no legal right to succeed to be granted a tenancy either for the deceased tenant's property or another home.

The Localism Act 2011 allows them to create a discretionary entitlement for specified groups to succeed for tenancies that start on or after 1 April 2012, provided that the tenant was not a social housing tenant prior to that date. Any such discretionary entitlement should be set out in the tenancy agreement and the tenure policy.

5.2 The Council's position

In response the Localism Act's reduction in legal rights attached to new local authority tenancies, the Council decided to create discretionary entitlement for those who would previously have had a statutory entitlement to succeed – that is, a deceased tenant's child, grandchild, parent, grandparent, brother, sister, uncle, aunt, nephew or niece.

The Council seeks to ensure that, where they do not have a statutory entitlement to succeed (often because the deceased tenant was a successor), the following groups are granted a tenancy to the deceased tenant's or another property if they have lived with the deceased tenant for a specified period of time, unless there are compelling reasons not to do so, such as breach of tenancy conditions:

- the resident partner of the deceased tenant who is neither a spouse or civil partner;
- the deceased tenant's child, grandchild, parent, grandparent, brother, sister, uncle, aunt, nephew or niece;
- another member of the deceased tenant's household who was named on the tenancy agreement at the start of the tenancy;
- the deceased tenant's carer, subject to an assessment of the following factors:
 - whether he or she gave up permanent accommodation to care for the tenant
 - how long he or she has lived with the deceased tenant;
 - his or her age
 - the degree of dependency that existed between the carer and the tenant
 - any hardship to him or her that would be caused if he or she were not granted a tenancy.

Given the extent of demand for larger and adapted or accessible homes, the Council may ask those other than partners who succeed to or are granted a tenancy to move to more suitable accommodation where:

- the home is larger than the council's allocations scheme assesses their household needs;
- the home is designed or adapted to be accessible to a disabled person and nobody in the household succeeding to or being granted a tenancy needs this sort of accommodation.

5.3 The Council's guidance to private registered providers on tenancy succession

In the interests of preventing homelessness and sustaining communities, the Council encourages private registered providers to consider allowing some or all of those identified in the list at section 5.2 to succeed to a deceased tenant's tenancy or be offered the tenancy to that or another property, subject to them having lived with the deceased tenant for a reasonable period of time.

The Council also suggests that private registered providers offer alternative accommodation, better suited to their needs, to a potential successor or person being granted a tenancy where the deceased tenant's home is larger than their household needs or where it is accessible or adapted for a disabled person, but nobody in their household requires accommodation of this sort.

Consultation questions for sections 5 of the draft tenancy strategy

13. Is the Council's position on its policy around discretionary succession and granting tenancies to those who have lived with a deceased tenant clear?

14. Is our guidance clear on what we expect private registered providers to have regard to when considering provision for those who have lived with a deceased tenant?

6. Monitoring

The tenancy strategy will be reviewed periodically. It is proposed that the Council will establish a group consisting of representatives of private registered providers and other key stakeholders to assist in reviewing the strategy to ensure its continuing effectiveness.

7. Consultation process

All with an interest in housing in Camden are welcome to respond, though the consultation is particularly aimed at the following:

- Private registered providers (housing associations)
- Greater London Authority.

Timescale This consultation will run for two weeks from Tuesday 6 November 2012 until 5pm on Tuesday 20 November 2012.

Enquiries

For further information on this consultation document please email rizwan.siddiqui@camden.gov.uk or telephone Rizwan Siddiqui on 020 7974 6425.

Consultation responses please complete online or send consultation responses via email to rizwan.siddiqui@camden.gov.uk or by post to:

Housing partnerships team
Housing and adult social care
Camden Council
2nd Floor
Bidborough House
38–50 Bidborough Street
London WC1H 9DB