Bristol City Council’s Tenancy Strategy

Introduction and context

1.1 Bristol’s Tenancy Strategy arises from the Localism Act 2011 which requires that a local housing authority must prepare and publish a tenancy strategy\(^1\) setting out the matters to which the registered providers\(^2\) (RPs) of affordable housing in its district are to have regard in formulating policies relating to:

(a) the kinds of tenancies they grant;

(b) the circumstances in which they will grant a tenancy of a particular kind;

(c) where they grant tenancies for a certain term, the lengths of the terms; and

(d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

Among other guidance it includes the forms of tenancy that the Local Authority (LA) would prefer the RPs in its area to use. For simplicity Bristol’s Tenancy Strategy covers the use of the Affordable Rent product though some other LAs may cover this in a separate policy.

1.2 The broad vision of the West of England Partnership and endorsed by the sub region’s Local Enterprise Partnership includes: “In 2026 the area will have: a rising quality of life for all, achieved by the promotion of healthy lifestyles, access to better quality healthcare, an upturn in the supply of affordable housing of all types and the development of sustainable communities”\(^3\).

1.3 Bristol’s Housing Strategy 'My home is my springboard for life' (2010) contains a number of themes and outcomes. The ones most relevant to the Tenancy Strategy and which need to be delivered through the use of affordable housing in the city are set out below:

- Theme ‘Mind the Gap’: sustain Bristol’s economic competitiveness and future prosperity, achieve more balanced housing markets and reduce inequality
- Theme ‘Early Bird’: create a high-quality approach to housing advice, prevention and solutions… to prevent crisis and increase housing choice

1.4 In summary, the broad objectives for Bristol’s Tenancy Strategy from the Housing Strategy are:

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\(^1\) Also known as Strategic Tenancy Policy

\(^2\) RPs in Bristol includes BCC’s own landlord, Landlord Services

\(^3\) Bristol’s Local Strategic Partnership in its 20:20 Plan says “Develop more sustainable communities through increasing the supply of affordable homes;...”
- Contribute to balanced, sustainable and cohesive communities
- Strategic use of existing housing stock to better meet need
- Not losing the affordable housing that is most in demand and deliver the properties and tenures in shortage e.g. bungalows, houses and larger family homes in the city
- Tackle overcrowding and underoccupation
- Maximise the delivery of high quality, sustainable homes and attract inward investment in new housing supply
- Better meet the needs of those requiring aids and adaptations

1.5 The Tenancy Strategy sits like this in relation to these other policies

1.6 The Tenancy Strategy has been developed in consultation with registered providers, partner organisations and other public service providers as well as tenants and residents in the city. The Tenancy Strategy seeks to balance a number of issues not least the imperative of supporting new development whilst also seeking to maintain sustainable communities. Welfare reforms, the Localism Act and changes to the TSA regulatory guidance all suggest that landlords should be thinking about a variety of new methods and tools to be proactive about their housing management. In the short to medium term under occupied family accommodation will not be freed up by the use of fixed term tenancies – but by competent targeting, empathetic customer contact and imaginative use of powers in tenancy agreements and lettings schemes⁶.

1.7 In preparing this Tenancy Strategy BCC has had regard to the City’s current allocation scheme and homelessness strategy⁵. RPs in Bristol will have regard to this Strategy in formulating their policies including their tenancy policies and copies of these will be available from their respective head offices or registered offices⁶.

⁴ In thinking about this changing relationship BCC recommends a report by Family Mosaic Housing Association called ‘Changing Direction’ which examines how RPs can work with their tenants to understand (and better meet) their future housing aspirations.
⁵ As required by section 151 of the Localism Act
⁶ As required by section 150 of the Localism Act
1.8 Definitions: Tenancies at Affordable Rents (ART) are now an option for some social housing providers. An ART is where the rent is set at ‘up to’ 80% of market rent (the 80% including service charge) at the time of let. A fixed term or flexible tenancy is one which is offered for a specified period of time.

1.9 There is no presumption that fixed term tenancies will be let as ART or that rent set at ART will denote a flexible tenancy. It is important to differentiate Rent Policy from Tenancy Policy (permission to charge Affordable Rent is given by the Homes and Communities Agency (HCA) under specific licence via Investment Programme Contracts and is not predicated upon specific tenancy types).

1.10 Because of the long history of cooperation between Bristol City Council (BCC) and local social housing providers it is likely that those partners have had best regard to ensuring neighbourhood cohesion and sustainable communities in formulating their policies regardless of holding an investment contract or otherwise. To support this BCC and its partners (especially the Bristol Housing Partnership (BHP)) have developed this Tenancy Strategy for the letting of affordable housing in Bristol.

1.11 The scope of this Tenancy Strategy includes:
   - Advertising properties (paragraph 2.1)
   - Conversion to ART (sections 4 and 5)
   - Tenancy type (section 6)

Method of advertising and importance of monitoring:
2.1 Landlords in the BCC area must use HomeChoice Bristol (HCB) to advertise and allocate ART and fixed term tenancy properties and continue to use HCB for all other secure or assured tenancies. All vacancies including properties that are being allocated as part of the landlords 25% (using their own selection criteria) must be notified to the Council’s rehousing team, this includes properties allocated as a direct offer and internal transfer. We ask that all social landlords provide us with the info we need so that BCC has a complete picture of allocations to monitor who affordable housing of all types is going to including the new tenancy types and ART. If for any reason a property cannot be let through HCB contact BCC’s rehousing team for advice.

Selection of properties to be let at Affordable Rent:
3.1 There are two routes through which properties can be identified for letting at ART
   - All new properties delivered with a HCA grant element (unless the HCA agrees an exception)
   - A number of existing properties as they become available for re-let that have been identified for conversion to support the RP’s development programme.

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7 The BHP is partnership of all the major RPs in the City including BCC’s own Landlord Services working together to improve housing
RPs must deliver the new properties delivered with HCA grant as ART and any applicant including existing tenants on social rents bidding for such a property does so at their own choice. BCC wishes to see a lettings plan for each new housing scheme of five or more homes agreed with its rehousing team. This does not have to be complicated or onerous and the rehousing team can advise. Depending on the tenure and deprivation profile of the area a decision would be taken on whether a % (up to 25%) of properties should be targeted at working households. RPs already have discretion over 25% of lettings.

3.2 Where a property is to be converted to ART, this should be based on the type of property and not on any potential applicant’s circumstances.

3.3 Affordable rent conversions can only be used by those RPs with an agreed investment contract with the HCA. Any application to let new property as ART through Section 106 schemes will be covered by the Delivering Housing and Balanced Communities Supplementary Planning Document (SPD).

3.4 BCC in principle supports RPs using the flexibility to convert existing stock to ART as a means to help deliver investment in further new development in the City. In doing so, RPs should have regard to the overall balance of housing provision and economic diversity in neighbourhoods, including any impacts on vulnerable groups. If RPs require advice on for example the tenure and economic make-up of an area the two BCC teams listed on the last page can provide this information. BCC will want to monitor and review the implications of proposed conversion rates to ART and any spatial patterns in conversions in advising the HCA of our view of any future funding programmes. This information will also inform the West of England Investment Framework as the HCA has said any future AH Programme will be on sub regional basis.

3.5 Affordability - RPs are strongly urged to consider the effect of the Universal Household Benefit Cap when setting rents for new or converted ART homes. The cap will limit income from benefit to £350pw for single people, and £500pw for families of any size. Higher rents will mean an increasing proportion of household income being spent on rents, and will reduce the amount of Housing Benefit credit under the cap for larger families.

Properties to be avoided for ART conversion

4.1 Because of the citywide, overall shortage of homes for larger families in housing need (overcrowded), and also those requiring accessible housing, the conversion to ART of the following property types citywide should be avoided where possible:

- 4 bed (and larger) houses
- bungalows

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8 HCA is a Central Government agency, one of it’s roles is to provide grant towards affordable housing.
properties with major disabled adaptations\(^9\)

4.2 RPs will discuss with BCC’s Affordable Housing Development Team Section any exceptions to the above policy recommendations (contact details on last page). Note ART conversions either geographical or of property types in shortage need “to be agreed with LAs to deal with issues around (encouraging) mixed income communities”\(^10\).

Type of Tenancies to be awarded for fixed term and flexible tenancies:

5.1 Affordable housing no longer has to be let on a tenancy for life. Landlords can opt to let a property on a fixed term (or for BCC’s Landlord Services this is called a flexible tenancy) tenancy. There are a range of options available for landlords in issuing fixed term tenancies\(^11\):

- 5 year fixed term tenancies – see para. 5.5
- 2 year fixed term tenancies – see para. 5.5.
- Any fixed term tenancy longer than five years, RPs should refer to the TSA tenancy standard for guidance around these longest fixed term tenancies.

5.2 The position of BCC is that each RP needs to make its own decision as whether it thinks the advantages of fixed term tenancies outweigh the disadvantages. This is balancing the needs of the prospective tenants as well as the RP’s needs. At the same time there is no expectation of landlords to offer a fixed term tenancy, however where a landlord chooses to, the type of tenancy granted must comply with the tenancy standard set by the Tenant Services Authority.

5.3 BCC favours the use of lifetime tenancies where to offer a shorter term has no obvious advantage (see para. 9.2 on older people’s accommodation); for example if the property is designated for a household type which will need the accommodation for the rest of their lives e.g. older or disabled households. BCC would also like RPs who opt for fixed term tenancies to consider longer term tenancies at the review stage for families with children based on issues such as the importance of continuity around schooling.

5.4 BCC would like to see a one year introductory/probationary year for all new tenancies in addition to the terms above and also at the start of lifetime tenancies. BCC regards introductory tenancies as good practice and an effective way of ‘nipping in the bud’ problems which breach tenancy conditions such as rent arrears and unacceptable behaviour.

5.5 **BCC feels if tenancies are time limited they should be for a least five years plus an introductory/probationary year (i.e. six years).** Tenancies of
only two years should be only used in exceptional circumstances and whilst BCC would not want to be informed in each case it would like to be consulted on the broad policy principles that necessitate any shorter tenancies. For example some RPs already let to mortgage rescue cases for only three years under separate arrangements outside HCB.

5.6 The expectation would also be that RPs in Bristol should engage with tenants on fixed term tenancies (and all tenancies) to understand their housing aspirations, see para. 1.6 above.

5.7 Tenant/s should be aware of reasons that led to the decision to create a fixed term tenancy and should be able to access published criteria from the RP outlining the circumstances in which the RP might renew or conclude a fixed term tenancy.

5.8 If RPs decide to use fixed term tenancies BCC would like RPs to consider how the use of fixed term tenancies supports other strategic priorities. Within making best use of housing stock RPs should bear particular reference to tackling under-occupation and may wish to consider tailoring the lengths of reviews of tenancies to reflect a period at which under-occupation is likely to occur.

Selection of properties to be awarded as fixed term tenancies

6.1 It is for individual RPs to implement their own policies around the selection of properties to be let as fixed term tenancies. If RPs decide to use fixed term tenancies BCC would like RPs to consider how their use promotes community balance and sustainability. Should it become apparent that the use of fixed term tenancies has contributed to too great an increase in stock turnover and/or a high concentration of fixed term tenancies in particular localities and that this has had a detrimental effect on communities, then BCC would wish for landlords to alter lettings policies to address this situation.

Existing Tenants

7.1 An existing tenant who chooses to bid for an ART property would need to accept the terms of that tenancy. A tenant who has a secure or assured tenancy granted before the 1st April 2012 can bid for a fixed term and flexible tenancy and they must be given the tenancy on the same life-time basis as before. Tenants with a life-time tenancy granted after 1st April will need to accept any flexible or fixed term if they want a property advertised on that basis.

7.2 In some circumstances, a tenant could be required to move by their landlord or where it is strategically beneficial (for example where they are under-occupying or to vacate an adapted property where it is no longer needed). Where this happens, BCC would wish to see the tenant transfer on the same terms as their current tenancy (with the exception of ART properties once advertised
where there is no discretion to offer on a social rent). This avoids a potential barrier to the tenant’s agreement to move.

7.3 Where a tenant is concerned about the implications of this, they should discuss this with their Housing Officer and/or take independent advice. (4. rewritten and checked with DCLG)

Set of criteria for assessing the renewal of tenancies

8.1 The RP should review a fixed term tenancy six months before it is due to end to consider whether it should be renewed. The landlord should be clear about its own assessment criteria in considering if the tenancy should be renewed.

Acceptable reasons to end a time-limited tenancy could include the following:

- Under-occupation
- A financial assessment identifies that the tenant is able to meet their own housing needs in the market sector
- Where the tenancy has been poorly conducted, e.g. there are persistent arrears or serious unacceptable behaviour
- Adapted property where household member/ tenant no longer needs the adaptation
- The tenant has acquired another property

8.2 There are some circumstances where it is preferable that a lifetime tenancy would be automatic:

- Designated older persons accommodation such as sheltered or ExtraCare
- Long-term designated supported housing where support need likely to be enduring

8.3 Any decision not to renew a fixed term tenancy should also have regard to:

- Tackling worklessness and promoting financial inclusion
- Addressing overcrowding and under-occupation
- The prevention and alleviation of homelessness
- Duties and obligations regarding children in need and any subsequent changes since the commencement of tenancy
- The purpose of the accommodation and any subsequent changes since the commencement of tenancy
- The needs of individual households and any subsequent changes since the commencement of tenancy
- The sustainability of the community
- The efficient use of housing stock

8.4 Providers should have regard to BCC objectives related to tackling worklessness and creating balanced, sustainable communities when considering the economic circumstances of households. Decisions not to renew tenancies on economic grounds should not compromise BCC’s broader strategic framework. See also ‘housing advice’ below.
8.5 The relevant sustainable communities and worklessness actions from the Bristol Partnership’s 20:20 plan are:

- Develop more sustainable communities through increasing the supply of affordable homes; maximising the number of empty homes brought into use; promoting a high quality built environment, local shops, high quality parks, jobs and regeneration outcomes
- Support and facilitate employment opportunities; target activity and skills development to young people, long-term workless, and areas of deprivation.

The assessment of market rent for setting of ART
9.1 Landlords are required to obtain an open market assessment. Landlords should refer to the latest RICS guidance for further information.

The assessment of affordability for individual households
10.1 The West of England Strategic Housing Market Assessment 2009 has adopted a definition of affordability at 25% of gross income (which equates to 30% of net income). Some homes let as ART at 80% of market rents to households on low incomes or on means tested benefits are unlikely to be affordable under this definition. RPs also need to be mindful of the effects of the Universal Household Benefit Cap and other welfare benefit changes on households’ ability to meet rents.

10.2 BCC has not been party to the exact assumptions made by developing RPs in their agreements with the HCA and does not wish to undermine the business plans of RPs. BCC acknowledges that RPs awarded investment contracts have already gone some way to developing their own policies around identifying properties to be let as ART. At the same time we have duty to the households who live in ART properties to ensure that they are affordable and sustainable for them.

10.3 Therefore we propose that upper limits on the rent set as ART should come into effect from the 1\textsuperscript{st} April 2013. ART is linked to market rents which are structured (escalate) in a different way to social rent and this makes larger properties particularly unaffordable. Work on affordability is being done for the Delivering Housing and Balanced Communities SPD and at a later date we will insert a table which shows the maximum amount the Council believes RPs should set ART rents at for 1 bed, 2 bed, 3 bed and 4 bed properties for new properties and relets\textsuperscript{12}. In the meantime we feel that rents that exceed the Local Housing Allowance (LHA) need to brought down below the LHA level\textsuperscript{13}. BCC would rather see a higher number of ART conversions at rents households needing affordable housing can sustainably afford than a smaller number at rents which are beyond the reach of those households.

\textsuperscript{12} In its Housing Strategy the Government acknowledges 95% or ART in London will be at a % lower that 80%, in Bristol this will be lower than 95% but early indications are not all property types will sustainable for tenants at 80%.

\textsuperscript{13} The National Affordable Homes Programme 2011-15 states that “circumstances where less than 80% (of gross market rent) may be appropriate, are where rents are close to or exceed LHA caps…”
Best practice for housing advice

11.1 Where a fixed term tenancy is granted, the landlord must review the tenancy six months before it expires. If it is felt by the landlord that the tenant no longer needs that accommodation or the property they are in is no longer suitable (e.g. their income has improved significantly or the property is too big for their needs) then the tenant/s may be asked to leave. A competent housing options and advice service must be made available to the tenant/s several months prior to the end of the tenancy. Tenants will be given advice by the RP to help them find suitable alternative housing. This could include applying for a transfer if they still have a need for affordable housing or looking at a private rented sector property or shared ownership. BCC is especially keen to see shared ownership offered as it generates funds for re-investment and may help diversify tenure in an area. All reasonable steps to prevent homelessness should be taken.

11.2 The West of England Housing and Support sub-group are establishing standards of housing advice for those who need to move. This is to ensure that any household receives good information about housing options available to them to prevent homelessness. Once available RPs in Bristol should adopt these standards.

Adapted Properties

12.1 The framework relating to Disabled Facilities Grant (DFG) installations is governed by legislation regardless of tenancy term. This means that an assessed need for aids and adaptations funded through DFG is not a barrier to bidding for a fixed term tenancy. It also means that being a tenant of a fixed term tenancy is not in itself a barrier to the approval of a DFG. In some instances removable equipment can be recycled where the tenant no longer has a need for it. Landlords are reminded to inform BCC where a property becomes empty and contains equipment that could be reused, or where the adaptations are specific and could be appropriate for a particular household in need of them under a landlord’s nominations quota.

Contacts

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Also available from the contact above is the Equality Impact Assessment of the Tenancy Policy