

# Tenancy Strategy 2023

**Service Area: Housing Services**

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**Date: February 2024**

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## Version Control

Version	Description of version	Effective Date
2.0	Draft	17 08 2023
2.0	Final	01 02 2024

## Approvals

Approved by	Date
Housing and Community Services Committee - Draft	16 11 2023
Housing and Community Services Committee - Final	01 02 2024

## Associated Documentation

Description of Documentation	
SDDC Tenancy Policy 2023	
SDDC Allocations Policy 2020	
SDDC Domestic Abuse Policy 2021	
Localism Act 2011	
Housing and Planning Act 2016	
Homelessness Reduction Act 2017	
Secure Tenancies (Victims of Domestic Abuse) Act 2018	



## 1.0 Introduction

- 1.1 The aim of the Tenancy Strategy (“Tenancy Strategy”) is to provide guidance to Registered Providers (“Registered Provider(s)”) on the type of tenancies the Council would like to see used in lettings in the South Derbyshire District Council area.
- 1.2 The Localism Act 2011 sought to expand the use of fixed term tenancies in the affordable housing sector in England. As the range of tenancy options increased, the Localism Act 2011 required local housing authorities in England to prepare and publish a ‘Tenancy Strategy’ setting out the matters to which the Registered Providers of social housing (including the Council as a provider) for its District are to have regard of in formulating policies to:
  - the type of tenancies they grant
  - the circumstances in which they will grant a tenancy of a particular kind
  - where they grant tenancies for a fixed period
  - the circumstances in which they will grant a further tenancy towards the end of an existing tenancy
- 1.3 Any Registered Provider seeking to utilise fixed term tenancies (and this also means and includes references to flexible tenancies and vice versa) will also have to publish a Tenancy Policy in order to be able to do so.
- 1.4 The original Tenancy Strategy (“Tenancy Strategy”) was adopted by the Council in 2016. As the objectives of the original strategy are the same, this new version represents a review and refresh to ensure that more recent legislation and local circumstances are updated within the previous document.
- 1.5 South Derbyshire District Council’s Housing Service will produce a Tenancy Policy setting out its own tenancy offer after the approval of the revised Tenancy Strategy.

## 2.0 Context

### Legislative Changes

- 2.1 Since the introduction of the Localism Act 2011 other pieces of legislation have been enacted that impact on the type of tenancy that can be offered by Local Authorities and Registered Providers.



- 2.2 The **Housing and Planning Act 2016** sought to introduce fixed term tenancies for new local authority tenancies (with a small number of exceptions). By 2018 the Government stated that provision to end local authorities' powers to offer lifetime tenancies will not be enacted 'at this time.' If the Government changes this position, then a full review of the Tenancy Strategy will be required.
- 2.3 The **Homelessness Reduction Act 2017** added two new duties to the original statutory rehousing duty:
- A duty to prevent homelessness
  - A duty to relieve homelessness

The legislation extends entitlements to help, places a renewed focus on the prevention of homelessness and local joint working and has the potential to provide more client-focussed, personalised statutory homelessness services.

- 2.4 The **Secure Tenancies (Victims of Domestic Abuse) Act 2018** supports victims of domestic abuse in social housing to leave their abusive situation. The bill required local authorities when re-housing an existing lifetime social tenant or offering them a new sole tenancy in their own home, to grant a new lifetime tenancy if the local authority is satisfied that the tenant or a member of their household has been a victim of domestic abuse and the new tenancy is granted in connection with that abuse.

South Derbyshire District Council has its own Domestic Abuse Policy which came into effect in November 2021.

## Local Policy

- 2.5 The Council's **Corporate Plan 2020-2024** sets out the Council's vision, values and priorities. The tenancy strategy links into one of these priorities:

*Our People - Working with Communities and meeting the future needs of the District by:*

- *Engaging with our Communities*
- *Supporting and Safeguarding the most Vulnerable*
- *Delivering Excellent Services.*

- 2.6 This Tenancy Strategy will provide guidance to Registered Providers with housing stock in South Derbyshire and will link into the Council's wider Strategic ambitions for housing in the District and should be read in conjunction with the Council's Housing Allocations Policy 2020 that operates within the District.



2.7 The Strategic Housing Market Assessment 2019-2028 (SHMA) identified that newly arising housing need was largely being met through the annual new supply across the District (new affordable homes plus vacancies in existing social rented stock). The main driver for the Government introducing fixed term tenancies was to increase the supply of affordable housing to those in genuine need. In South Derbyshire the relatively high level of supply reduces the need to introduce fixed term tenancies.

### 3.0 Overview of Housing in South Derbyshire

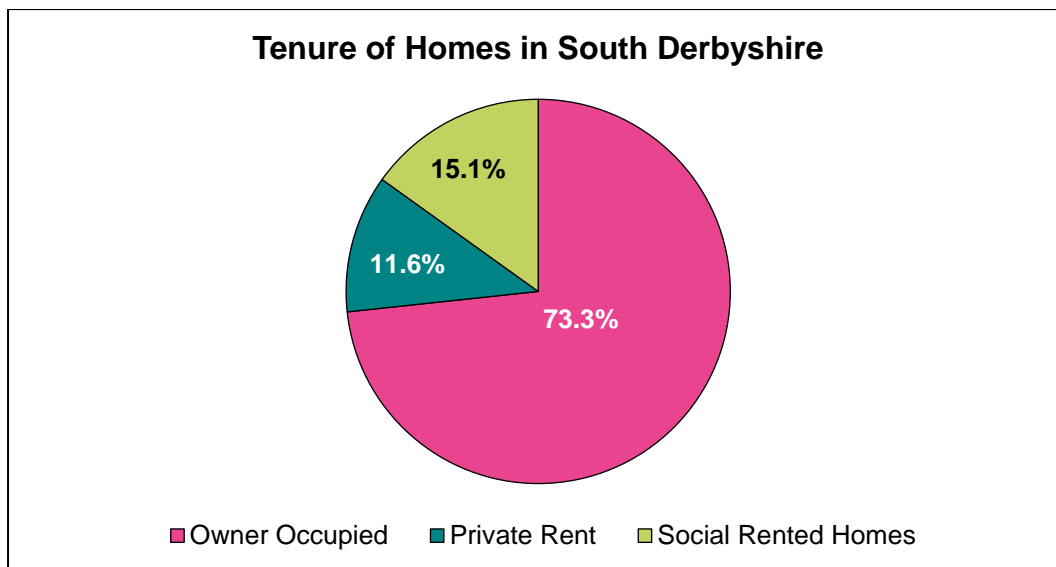
3.1 South Derbyshire is a largely rural District at the heart of the National Forest. It is one of the fastest growing areas in England with a current population of over 105,000. This is set to grow by nearly 15% between 2019 and 2028 to increase this total to over 120,000 people. The majority of people within the District live in the private sector (84.9%), with 73.8% owning their own home and 11.6% private renting. Only 15.1% of households live in social rented housing.

3.2 The table and pie chart below show the breakdown of housing by tenure types in each of the wards within South Derbyshire. There are currently 45,085 homes within the District.

**Tenure of Homes in South Derbyshire**

Ward Name	Owner		Private Rent		Social Rented		Total
	Occupied				Homes		
	n	%	n	%	n	%	
Aston	3,345	88.0%	211	5.6%	243	6.4%	3,799
Church Gresley	2,832	73.8%	600	15.6%	406	10.6%	3,838
Etwall	2,191	86.0%	188	7.4%	168	6.6%	2,547
Hatton	988	80.3%	118	9.6%	124	10.1%	1,230
Hilton	3,391	80.8%	564	13.4%	242	5.8%	4,197
Linton	2,113	82.7%	191	7.5%	252	9.9%	2,556
Melbourne	1,875	76.7%	321	13.1%	250	10.2%	2,446
Midway	2,859	75.1%	290	7.6%	656	17.2%	3,805
Newhall and Stanton	2,380	69.5%	437	12.8%	606	17.7%	3,423
Repton	1,751	85.3%	191	9.3%	111	5.4%	2,053
Seales	1,924	79.7%	215	8.9%	274	11.4%	2,413
Stenson	1,837	86.3%	212	10.0%	79	3.7%	2,128
Swadlincote	3,113	71.8%	548	12.6%	672	15.5%	4,333
Willington and Findern	2,576	90.0%	127	4.4%	158	5.5%	2,861
Woodville	2,958	70.8%	627	15.0%	591	14.2%	4,176
<b>Total</b>	<b>36,133</b>	<b>73.3%</b>	<b>4,840</b>	<b>11.6%</b>	<b>4,832</b>	<b>15.1%</b>	<b>45,805</b>





3.3 Affordable Housing: Over the last five years the Council have delivered new affordable housing through the following mechanisms:

- Negotiation of section 106 agreements for new housing developments.
- Supporting Registered Providers to delivery new homes with Homes England grant funding.
- Direct delivery of new Council Housing through acquisition and new build schemes on Council owned land.

3.4 Key facts about affordable homes in South Derbyshire:

- There are 4,733 social rented homes in the District (15.1% of all homes in the District).
- The Council owns 2,952 of these homes.
- Alongside the Council, there are 14 Registered Providers that have housing stock within the District of South Derbyshire.

Derwent Living	East Midlands Housing Group
Futures Housing Group	Guinness Partnership
Longhurst Group	Metropolitan Housing
Midland Heart	Midlands Rural
NCHA	Platform Housing
Riverside Housing	Sanctuary Housing
Trent & Dove	Trident Housing

- The Council works closely with its Registered Provider partners to provide affordable housing to people on the Council’s waiting list.
- The average weekly rent of a property at social rent is £78.20 for Council tenants and £85.88 for Registered Provider tenants.
- The average weekly cost of a property with rent set at affordable rent level is £98.40 (including service charges).



## 4.0 New Supply of Affordable Homes

4.1 The Council is committed to delivering new affordable homes across the District to meet newly arising need. The Strategic Housing Market Assessment (SHMA) indicates that there is a current shortfall of around 325 affordable rented homes per year which is largely being met by both new delivery and vacancies arising in existing social rented stock. The Council delivered 156 new affordable homes during 2021/2022 and are on track to deliver around 200 affordable homes by the end of the current financial year (2022/23).

4.2 The table below shows the numbers of affordable rented housing within each ward:

Submarket / Ward	Registered Providers and Council Stock
<b>Derby Fringe Total</b>	<b>975</b>
Aston Ward	257
Melbourne Ward	252
Repton Ward	140
Stenson Ward	77
Willington & Findern Ward	249
<b>Northwest Fringe Total</b>	<b>498</b>
Etwall Ward	207
Hatton & Hoon Ward	103
Hilton Ward	188
<b>Swadlincote &amp; South Fringe Total</b>	<b>3260</b>
Church Gresley Ward	368
Linton Ward	258
Midway Ward	553
Newhall & Staton Ward	566
Seales Ward	253
Swadlincote Ward	655
Woodville Ward	607
<b>TOTAL</b>	<b>4733</b>



## 5.0 Guidance on Affordable Rents

- 5.1 Affordable housing includes social rent and affordable rent homes and ensures homes are provided to eligible households via the Council's Housing Register and Registered Provider's waiting lists to households whose needs are not met by the market.
- 5.2 Social rent homes are owned and managed by Local Authorities and Registered Providers for which formula rents are heavily influenced through the national rent regime. Social rents are typically 60-70% of market rents, whereas affordable rented homes may be as much as 80% of the local market rents.
- 5.3 Affordable rents are rents set at approximately 80% of market level rents and are intended to provide additional funding to support new build investment. All Registered Providers who have entered into development contracts with Homes England are required to charge affordable rents on newly completed schemes. Registered Providers with Homes England development contracts can also convert a proportion of their social rent re-lets to affordable rents.
- 5.4 The Council acknowledges that developments funded by Homes England grant will be delivered at affordable rent levels and that some Registered Providers will choose to convert existing socially rented homes to affordable rents when re-let. However, the Council will not support affordable rent on sites with or without Homes England funding if rent levels charged (including services charges) would be above the Local Housing Allowance levels and therefore unaffordable for tenants on low incomes.
- 5.5 Summary of the Council's position on Affordable Rent:
- Social rent is the preferred tenure for existing and new social housing in the District.
  - The Council encourages Registered Providers to use their discretion to set Affordable Rents below 80% of the market rent to ensure developments are affordable.
  - The Council does not wish to see households facing financial difficulties because their income is insufficient for their housing costs and other essential expenditure
  - The Council encourages Registered Providers to ensure that properties remain affordable for those subject to the benefit cap.
  - The Council seeks commitment from Registered Providers that a reasonable level of locally based reinvestment will result from charging Affordable Rent in the District.
  - The Council does not wish to see an area experience high concentrations of Affordable Rent conversions.

## 6.0 Objectives

- 6.1 The overall objective of the Tenancy Strategy is:





*'To ensure that registered providers of affordable housing in South Derbyshire can use their properties as effectively as possible to provide homes for South Derbyshire residents in housing need.'*

Although the preference of South Derbyshire District Council is for Registered Providers operating in the District to offer lifetime tenancies, the Council recognise that the use of fixed term/flexible tenancies can help meet the overall objective.

6.2 When utilising fixed term tenancies, the Council expects Registered Providers to:

- Help more people move on from affordable housing once they can sustain an alternative solution, such as home ownership or the private rented sector.
- Tackle under-occupation by giving local Registered Providers more opportunity to move people to smaller accommodation if they find themselves in a property that is too big for them. This will release larger properties for those that need them, including overcrowded households.
- Encourage tenants to take control of their lives by providing support when it is needed at a time of crisis but encouraging people to prepare for independence once their situation has improved by making it clear from the start of their tenancy that the arrangement is not necessarily a permanent one.

6.3 The Council is aware that Registered Providers often work across many local authority areas but where possible the Council would like to ensure all tenancy policies are transparent and so far as possible equitable to housing applicants. Registered Providers are expected to provide information and consult on their tenancy policies with both tenants and the Council.

## 7.0 Tenure Offer

7.1 The Council's preference is for Registered Providers to offer a **Lifetime Tenancy** to tenants. Historically, lifetime tenancies will be secure tenancies in the Council housing sector and assured tenancies in the Registered Provider sector.

7.2 The Council supports Registered Providers using **Introductory, Starter or Assured Shorthold Tenancies**. The foregoing tenancies are tenancies often for one year, which provides the tenant with a trial period. Tenants can then progress to a lifetime tenancy. These tenancies are a useful tool for landlords to address issues such as anti-social behaviour.



7.3 As an alternative to a lifetime tenancy, Registered Providers can offer a **Fixed Term/Flexible Tenancy**, if the circumstances of the case dictate that this would be the most appropriate course of action. If a Registered Provider intends to use a fixed term/flexible tenancy, it should be for a minimum period of five years. The Council believes this ensures social housing residents in South Derbyshire have a reasonable degree of security whilst also allowing Registered Providers to make best use of their stock without creating a significant administrative burden.

The Council would not support tenancies of less than five years.

7.4 The Council would not support the offer of a fixed term/flexible tenancy to vulnerable households. In these situations, a lifetime tenancy will be suitable. The Council supports this approach in cases such as, but not limited to, the following:

7.4.1 people with a long and enduring illness or condition of a serious nature and where a person's circumstances are unlikely to change.

7.4.2 older people in sheltered accommodation.

7.4.3 families with disabled children (where in the medical examiner's view a longer tenancy would provide stability).

7.4.4 people leaving care.

7.4.5 injured ex-service personnel.

7.5 Secure tenancy rights of existing housing association tenants should be protected so as not to discourage downsizing or movement within the housing association stock and cross-Borough/District mobility schemes.

7.6 In cases of domestic abuse where a tenant of social housing either flees their property or makes an application to turn their joint tenancy into a sole tenancy, the Council supports a 'like for like' approach. In all circumstances where a tenant has a lifetime tenancy, a tenancy with the same security of tenure must be offered if the Registered Provider is satisfied that the person or member of the person's household is or has been the survivor of domestic abuse carried out by another person and the Registered Provider grants a new tenancy for reasons connected with that abuse. This is in line with the Secure Tenancies (Victims of Domestic Abuse) Act 2018 and the Council expects Registered Providers to follow this approach as the legislation includes 'assured tenancies' within the definition of a 'qualifying tenancy' under the Act.

7.7 The Council supports properties being let on a **Temporary Licence** as a short-term agreement usually for no more than 12-months, which gives households experiencing homelessness the right to stay in a scheme such as hostel/supported housing until they are ready to be re-housed.



7.8 The Council supports properties being let at social and affordable rents to households on the Housing Register. The Council expects that all affordable rent properties the Council has nomination rights to, will be let to households in need, as prioritised via the Allocations Policy.

## 8.0 Fixed Term/Flexible Tenancy Reviews

8.1 The Council expects that those affordable Registered Providers who elect to offer Fixed Term/Flexible Tenancies clearly set out within their Tenancy Policy how they will review a fixed term/flexible tenancy.

8.2 The Council expects the tenancy review criteria will reflect South Derbyshire District Council's Allocation Policy when determining the suitability of the property.

8.3 In terms of tenancy conduct, it is important that the review of the fixed term/flexible tenancy is not used as an alternative to the usual remedies available to address breaches of tenancy. On that basis, the Council would not expect a landlord to decide not to renew a fixed term/flexible tenancy due to the way the tenant has conducted the tenancy unless formal possession action is already underway.

8.4 The Council expects tenancies will be automatically extended where one or more of the following apply:

8.4.1 The household make-up has not changed since the original allocation of the property.

8.4.2 A tenant or member of their household has a disability, substantiated by their doctor and the property has been substantially structurally adapted to meet the disability needs of that person.

8.4.3 A tenant or member of their household has a severe learning disability, substantiated by their doctor or social services.

8.4.4 A tenant is a registered foster carer for the Families and Young Persons Service and the tenancy needs to continue to enable them to perform this role.

8.5 The Council expects tenancies will not normally be extended where the property significantly does not meet the needs of the household. This may include one or more of the following:



- 8.5.1 The property is permanently under occupied by more than two-bedrooms.
- 8.5.2 The property has been substantially structurally adapted/extended or specifically built to meet the needs of a disabled tenant or member of their household who no longer resides at the property.

## 9.0 Termination of Fixed Term/Flexible Tenancy

- 9.1 The Council expects that tenants who have had a review of their tenancy will be given at least six (6) months' written notice that the tenancy is not to be extended. The Registered Provider must give the tenant adequate reasons in writing for the decision to end the tenancy and give information on the right to appeal.
- 9.2 Given the role of the Council in tackling homelessness, it is expected that affordable Registered Providers will allow a tenant to remain in their property at the end of the tenancy until a suitable alternative has been found. The Council expects the Registered Provider to offer advice and assistance, as well as financial support, such as rent deposit guarantee schemes, for those re-housed in the private rented sector or access to shared equity products to those interested in low-cost market housing.

## 10.0 Suitable accommodation at the end of a Fixed Term/Flexible Tenancy

- 10.1 The Council considers "suitable accommodation" means the following unless otherwise agreed with the tenant:
- 10.1.1 Where a tenant has children attending a local school the accommodation is within the catchment area of that school.
- 10.1.2 The accommodation meets the decent homes standard and the household will not over-occupy the property.
- 10.1.3 Where the tenant or a member of the household is a nominated carer of a relative who does not live with the carer that the accommodation is within a reasonable distance to ensure continuity of care. This includes ensuring that appropriate public transport is available if this is the current mode of transport used by the carer to visit the relative.

## 11.0 Appeals

- 11.1 The Registered Provider's Tenancy Policy must clearly set-out the process for the tenant to appeal a decision to terminate their tenancy. This should include:
- Advice on their right to appeal the decision and where they can seek support and assistance to help them prepare their appeal.



- The tenant should be given a minimum of 21 days to make an appeal after receipt of the Registered Provider's written decision not to extend the fixed term/flexible tenancy.
- A review should be carried out independently by a senior officer who has not been involved in the original decision.
- The senior officer should base their decision on the known facts at the time of the review. In some cases, they may need to ask the tenant for more information to help them make a decision.
- The senior officer should make a decision and write to the tenant explaining their reasons for it within 28 days of receipt of the written appeal.
- The tenant should be informed that if they are not happy with the outcome of the appeals process they will still have the right to recourse through the Courts.

