



South  
Derbyshire  
District Council

Annexe A

# Tenancy Strategy 2012 - 2017

## Consultation Document



INVESTOR IN PEOPLE

South Derbyshire **Changing for the better**

## **Foreword**

South Derbyshire District Council recognises that housing is at the heart of achieving the social and economic well-being of communities. The Council is committed to better meeting the housing needs of its residents. The introduction of the Localism Act 2011 provides local authorities with the flexibility to shape how affordable housing for rent is offered to those residents not able to access homes at market rents.

Our new Tenancy Strategy sets out how we consider affordable rented homes should be offered to new tenants. Our strategic objective is to meet local housing needs by ensuring that affordable housing helps those residents that need it, for as long as they need it, and by doing so enable affordable housing to benefit more people.

We recognise that registered providers may be reasonably independent organisations working across local authority boundaries and that it is not necessarily practical for registered providers to operate several different Tenancy Policies in different localities. Therefore this strategy sets out the broad principles that the Council expects registered providers to consider.



**Councillor John Lemmon**

*Chair of Housing and Community Services Committee*

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## **1.0 Introduction**

- 1.1 Under the Localism Act 2011, all local authorities have a duty to produce a tenancy strategy, setting out the objectives to be taken into consideration by individual affordable housing providers as they make decisions about their own tenancy policies. For the purpose of this strategy, both stock owned by South Derbyshire District Council and its registered housing provider partners are referred to as “affordable housing”.
- 1.2 The Localism Act allows affordable housing providers more freedom to:
  - Provide new tenants with a fixed term tenancy where it's believed to be more appropriate than a lifetime tenancy<sup>1</sup>;
  - Establish the length of the fixed-term tenancy to be offered;
  - Develop their own strategy setting out the criteria to be issued in determining whether to issue a new tenancy at the end of any fixed term;
  - Continue to grant lifetime tenancies if they wish either for all or for specific household groups/property types/locations;
  - Let new build homes or re-let of existing homes under the new “affordable rent” tenure, which allows for affordable housing providers to charge higher rent levels (up to 80% of market rents).
- 1.3 The Localism Act also changes the legal entitlement to succeed a tenancy. For new tenancies the legal right to succession will now be limited to spouses, civil partners and couples living together as if they are a spouse or civil partner.
- 1.4 The government expects local authorities to have some strategic influence over how affordable housing providers implement these reforms. All affordable housing providers operating within the district of South Derbyshire will need to give “due regard” to the district’s Tenancy Strategy when implementing their own tenancy policies.
- 1.5 South Derbyshire’s tenancy strategy has been developed within the context of the Council’s overall Corporate Plan 2009-14 and its strategic objective to “Deliver a range of affordable and decent housing options within safe and clean neighbourhoods.”
- 1.6 The context of both the Local Housing Strategy and Homelessness Prevention Strategy, which have both identified a shortfall in affordable housing<sup>2</sup>, has been considered when developing this Strategic Tenancy Strategy.

## **2.0 Local Context**

- 2.1 South Derbyshire is a semi-rural district in central England covering an area of over 100 square miles. Its population is growing and currently stands at 94,600<sup>3</sup>. It adjoins and is heavily influenced by the City of Derby to the north and Burton-upon-Trent to the west. The town of Swadlincote, in the south of the District, is the main urban centre with a population of around 33,000. The percentage population growth of South Derbyshire is expected to be twice that of Derbyshire and England over the next 20 years.

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<sup>1</sup> This only applies to new lets or re-lets. Existing tenants remain unaffected by any changes and will continue to enjoy full security of tenure, together with all conditions such as the right to buy, rights of succession and a right to exchange their tenancy. Fixed term tenancies may also have some of these rights

<sup>2</sup> Affordable housing is housing for people who are unable to access or afford market housing.

<sup>3</sup> 2011 Census data

## 2.2 The key facts about affordable homes in South Derbyshire:-

There are 3,803 (9.6% of all homes in the district).

- The council owns 3,040 (80%) of these of which approximately 1,000 homes are designated for the elderly.
- There are 12 registered providers in South Derbyshire managing the remaining 779 (20%) rented homes.
- For the previous 3-years 2009/10 to 2011/12 the number of homes available to rent has remained fairly consistent at around 250 per year, despite an average increase in supply of 36 new homes available for social rent.

The average social rent for a two bed house, owned by a registered provider (excluding local authority stock) is £84.05 per week.

- The average cost of private renting a two-bed house is £117.46<sup>4</sup>.
- An affordable rent of up to 80% market rent could be £93.97.
- The house price for a lower quartile home sold was £110,000<sup>5</sup>.

At 18<sup>th</sup> September 2012 there were 1,841 housing applicants on the housing waiting list.

- 1,057 households require 1 bedroom.
- 588 households require 2 bedrooms.
- 92 households require 3 bedrooms.
- 104 households require 4 or more bedrooms.

The number of housing applicants on the housing waiting list has increased by almost 300 since April 2012 and continues to grow.

The 2007/08 District Strategic Housing Market Assessment indicated a net shortfall in affordable housing supply of 396 units per year. The shortfall is higher in the north of the district towards Derby than the southern urban core around Swadlincote.

New affordable housing completions for rent:-

- 2009/10 - 57
- 2010/11 - 48
- 2011/12 – 33
- Average of 36 completions for the period 2009 to 2012.

## 3.0 New Supply of affordable homes beyond 2012/13.

- 3.1 Alongside the requirements of the Localism Act, the Homes and Communities Agency (HCA) is currently in the process of agreeing development programmes for the delivery of new affordable homes over the next four years. All new properties built with HCA funding will be offered at affordable rents up to 80% of local market rents (this being inclusive of service charges). In addition the HCA is encouraging affordable housing providers to take a more proactive approach to managing their stock, including disposal of stock where this will generate funds to invest in new homes.
- 3.2 To rejuvenate the 'Right to buy' scheme the government has recently increased the maximum discount cap to £75,000 and is encouraging councils to build new affordable homes by allowing them to retain the funding locally from additional sales if they commit

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<sup>4</sup> Valuation Office, May 2012 bulletin 'Private Rental Market' available from:  
[http://www.voa.gov.uk/corporate/\\_downloads/xls/120531-All%20Tables.xls](http://www.voa.gov.uk/corporate/_downloads/xls/120531-All%20Tables.xls)

<sup>5</sup> CLG live table 583, 2011 (3<sup>rd</sup> Quarter) available from: <http://www.communities.gov.uk/documents/housing/xls/152924.xls>

to replacing the lost stock. It is likely that any new stock delivered by the council would also need to be offered at, or near, affordable rents.

- 3.3 Like many other districts general new building house completions (i.e. market housing as well as affordable housing) in South Derbyshire have declined in recent years from those reached at the height of economic activity (2007/8 – 570 house completions) to 240 completions in 2009/10. In 2007/8 the council was securing up to 40% affordable homes through planning gain, however in today's market the council struggles to secure 20% affordable homes. This is despite an increase in completions for 2011/12 (330).
- 3.4 The Council needs to ensure that new housing developments provide a mix of house sizes and types, and are accessible to households on a range of incomes to encourage balanced mixed communities to create social cohesion. Striking the balance between the need to build new homes to encourage the local economy to grow against the need for new affordable homes is likely to continue to be a challenge for the district in the short to medium term.

#### **4.0 Guidance on Affordable Rents**

- 4.1 Affordable housing includes social rented<sup>6</sup> and affordable rent homes<sup>7</sup> provided to eligible households whose needs are not met by the market.
- 4.2 Social rented 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
- 4.3 Affordable rents are intended to provide additional funding to support new build investment. All registered providers who have entered into development contracts with the Homes and Communities Agency are required to charge affordable rents on newly completed schemes. Registered providers with Homes and Communities Agency development contracts can also convert a proportion of their social rent re-lets to affordable rents.
- 4.4 The table below shows the difference in weekly social and market rent levels for South Derbyshire.

Property Type	RP Social Rent	Council Housing Social Rent	100% Market Rent <sup>8</sup>	80% Market Rent (Affordable Rent)	Local Housing Allowance (From April 2012 for Eastern Staffordshire)
1-bed	£71.78	£61.84	£91.85	£73.48	£81.92
2-bed	£84.05	£71.85	£117.46	£93.97	£103.85
3-bed	£95.91	£75.28	£140.07	£112.06	£121.15

\*Figures are for 2012/13 and exclude service charges.

<sup>6</sup> Social rented is housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime.

<sup>7</sup> Affordable rent tenure is housing let by local authorities or registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent.

<sup>8</sup> Private Rent level – average monthly rent multiplied by 12 divided by 52 weeks based on data published by the valuation office. Available at: [http://www.voa.gov.uk/corporate/\\_downloads/xls/120126-All%20Tables.xls](http://www.voa.gov.uk/corporate/_downloads/xls/120126-All%20Tables.xls)

- 4.5 The table above gives an indication of the rent levels (excluding service charges) across South Derbyshire. These will vary depending on the location and type of property. A Registered Provider may charge an affordable rent which is up to 80% of market rents inclusive of service charges. The data above shows that current social rents charged by registered providers in South Derbyshire range between 2% to 17% below that of 80% market rent for 1-bed to 3-bed properties.
- 4.6 The Council acknowledges that developments funded by Homes and Communities Agency 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 and Communities Agency funding if rent levels charged (including services charges) would be above the Local Housing Allowance levels and therefore unaffordable for tenants on low incomes.
- 4.7 The Council will not support the conversion of social rented properties to affordable rent negotiated through, and subject to, section 106 agreements/ unilateral undertaking.

## **5.0 Future Tenancies across South Derbyshire**

- 5.1 In future the Council expects to see, in the main, four different types of tenancies operating across the district – introductory/starter, temporary agreements, fixed-term and lifetime. Historically, lifetime tenancies will be secure tenancies in the council housing sector and assured tenancies in the registered provider sector.
- 5.2 Introductory/starter tenancies
- 5.2.1 An introductory/starter tenancy is a 12-month trial tenancy given to a new tenant. It gives the tenant most of the same rights as a secure/assured tenancy but they can be evicted more readily, although a court order is still required. As long as the tenant does not break their introductory tenancy agreement the Council expects a secure/assured tenancy to be automatically issued after 12-months.
- 5.3 Temporary Agreements
- 5.3.1 These agreements are short-term agreements, usually for no more than 12-months, which give a tenant the right to stay in a scheme such as hostel/supported housing until they are ready to be re-housed.
- 5.4 Lifetime tenancies
- 5.4.1 Lifetime secure and assured tenancies are those which are only reviewed if the tenant breaches the conditions of their tenancy agreement.
- 5.4.2 Lifetime tenancies are intended for:
- All existing tenants of South Derbyshire District Council or those of registered providers who currently have a lifetime tenancy agreement.
  - New lets to designated supported older person accommodation.

## **5.5 Fixed Term tenancies**

- 5.5.1 Following completion of a 12-month introductory tenancy, fixed term tenancies of a minimum of five years shall be granted to all new tenants other than older people being offered tenancies in designated supported accommodation schemes.
- 5.5.2 Fixed term tenancies of less than five years may be considered for applicants being offered supported accommodation as a “halfway” house as they make the transition to independent living.
- 5.5.3 Fixed term tenancies may be considered more appropriate to encourage people to take responsibility for their own lives and utilise opportunities for greater independence through employment and to move-on to more mainstream accommodation.

## **6.0 Tenancy Reviews**

- 6.1 The Council expects affordable housing providers to set out clearly within their Tenancy Policy how they will review a fixed term tenancy. The Council expects the tenancy review criteria will reflect South Derbyshire District Council’s Allocation Policy when determining the suitability of the property.
- 6.2 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. 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 unless formal possession action is already underway or being considered.
- 6.3 The Council expects tenancies will be automatically extended where one or more of the following apply:
  - The household make-up has not changed since the original allocation of the property.
  - 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.
  - A tenant or member of their household has a severe learning disability, substantiated by their doctor or social services.
  - 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.
- 6.4 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:
  - The property is permanently<sup>9</sup> under occupied by more than two-bedrooms.
  - 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.

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<sup>9</sup> Permanently – the number of persons permanently living at a home shall be based on those who have a legal residence (domicile) at the relevant address. For the purpose of this Tenancy Strategy students living away at university will be counted as residing at the property, but the tenant may be subject to benefit reductions if this leaves unoccupied bedrooms at the property.

## **7.0 Termination of a Fixed Term Tenancy**

- 7.1 The Council expects that tenants who have had a review of their tenancy will be given at least 6-months notice that the tenancy is not to be extended. The provider must give the tenant adequate reasons for the decision to end the tenancy and give information on the right to appeal.
- 7.2 Given the role of the Council in tackling homelessness, it is expected that affordable housing 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 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.

## **8.0 Suitable alternative accommodation at the end of a Fixed Term Tenancy**

- 8.1 The Council considers “suitable accommodation” means the following unless otherwise agreed with the tenant:
- Where a tenant has children attending a local school the accommodation is within the catchment area of that school.
  - The accommodation meets the decent homes standard and the household will not over-occupy the property.
  - 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.

## **9.0 Appeals**

- 9.1 The 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 provider’s written decision not to extend the fixed term 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.

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