

Report Title	DEVELOPMENT OF THE TENANCY POLICY
Purpose of Report	To inform members of the need to develop a Tenancy Policy for our housing service, which sets out clearly how we will apply and administer fixed term tenancies, a provision made for all social landlords in the Housing and Planning Act 2016.
Decision(s)	Housing Committee RESOLVES: 1. To develop a tenancy policy for the councils own housing stock on the administration of fixed term tenancies following the receipt of guidance on this aspect of the HPA 2016, this may include considering policy on any aspects devolved for local determination. 2. To set up a T&F group to undertake this review, and bring a recommendation back to this Committee to consider, at the first opportunity after guidance on the implementation of fixed term tenancies has been issued by DCLG.
Consultation and Feedback	It is proposed that this will be overseen by a T&F group, who will as part of their remit, seek the views of key stakeholders, including: other members of the council, housing advice team, relevant housing advisory and support agencies, as appropriate and of course tenant representatives.
Financial Implications and Risk Assessment	There are no financial implications arising directly from this report. David Stanley, Accountancy Manager Tel: 01453 754344 Email: david.stanley@stroud.gov.uk
Legal Implications	This report concerns pending changes to council tenancies within the Housing and Planning Act 2016. The changes, which it is understood the proposed task and finish group is being established to consider, concern only one part of the legislation (i.e. the phasing out of tenancies for life) and in particular the Council's policy regarding the length of new or introductory tenancies. The new statutory provisions will require the Council to offer fixed term tenancies of between 2 and 10 years (subject to families with children under 9 living with them being granted tenancies until the relevant child is 19). In

	<p>deciding what length of tenancy to grant the Council must have regard to (rather than be bound by) any Government guidance.</p> <p>Reference is made in the report to the Tenancy Strategy. It should be noted that such strategies concern the matters which registered providers (rather than the Council) within a particular housing district must have regard to; and covers the types of tenancies, circumstances in which such tenancies are granted initially and subsequently, and the length of fixed term tenancies. Nevertheless importantly, the Council is also required to take account of its Housing Strategy when exercising its housing management functions. The strategy will therefore need to be considered (and probably reviewed) alongside the pending changes to secured tenancies to which this report is principally concerned.</p> <p>It is anticipated that some of the other changes to housing which are addressed within the 2016 Act will be considered by either the Housing or Environment committees recognising the split between the local planning authority and housing authority functions of the Council. It may be considered sensible for the members of the task and finish group to include members from both committees to promote co-ordination of these two related Council functions.</p> <p>Karen Trickey, Legal Services Manager Email: karen.trickey@stroud.gov.uk</p>
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1. Introduction

- 1.1. The Localism Act 2011 introduced a requirement for Local Authorities to develop a Tenancy Strategy setting out the matters all social housing providers operating in their District should have regard to when formulating policies on the tenancies they grant, the circumstances under which they will grant a tenancy and, with regard to fixed term tenancies (FTT), it will also address the period of time such a tenancy will run for and the circumstances under which they would renew it. The Council adopted a Tenancy Strategy for Registered Providers operating within the district in 2012.

Our housing service; however, has not offered FTT to date, and has not needed to have regard to the Tenancy Strategy. However, new legislation in the Housing and Planning Act 2016 (HPA 2016) will mean

that we will be offering all new lettings as a FTT at some point in 2017, the application of which is subject to guidance which is due from the DCLG.

The HPA 2016 and related guidance is expected to spell out clearly the requirement on the local authority landlord, with similar expectations relating to FTT being placed on housing associations. It is unclear at this stage what local flexibility will be available, but we consider that it is important that we develop a clear policy on their application, which will ensure not only that we comply with DCLG guidance, but that where any local flexibility exists, that we are clear about how this will be applied.

At present, it is felt that our Tenancy Strategy can remain unchanged, with a view of this decision being taken once we have begun our review of our Tenancy Policy. It is felt that guidance from DCLG may even replace the role of the Tenancy Strategy, but are mindful that, depending on the nature of any local flexibility, we may need to revisit our strategy at a later stage, this being an issue we propose to review once lessons are learned from DCLG guidance and our Tenancy Policy's development.

2. Fixed term tenancy issues to be considered

- 2.1. Guidance for the implementation of fixed term tenancies, supporting their introduction through the HPA 2016 has been delayed. However, it is worth noting that whilst an announcement was made by the DCLG stating that there will be no implementation of the higher income social tenants policy (HIST) or 'pay to stay' and that a postponement in the introduction of the RTB Levy until 2018, no reference was made to fixed term tenancies, which we understand will be implemented, although its introduction may be put back from what was initially expected to be April 2017 to possibly October 2017.

Information released and discussed through the housing sector, suggests that Government are considering that creation of all new tenancies, (with some exceptions), will be on a fixed term generally of 5 years.

These exceptions include the creation of 10 year fixed term tenancies in the case of families with children of school age, supporting the need of the child to have stability throughout their education. There may be some exceptions where secure tenancies will continue to be offered, thought to include those in sheltered housing.

At the end of the fixed term, the landlord will have to decide whether to extend the tenancy. Guidance will define this, but we expect that there may be some local determination which may apply here. We expect that this may include cases where; for example, a tenancy is not

renewed because a tenant is financially able to purchase a home on the open market, alternatively, in the case of a tenants household circumstances changing so that they are now under occupying, their tenancy would only be renewed subject to them moving to smaller accommodation.

However, a wide variety of circumstances may apply, to which we need to have a clear policy direction, this being subject to any options made available to us in terms of local determination, on when we will and will not create or extend a fixed term tenancy.

2.2. Key stakeholders

The development of a Tenancy Policy will need to be considered in consultation with our housing advice team, together with others who can comment on issues relating to housing need and the link between this and the manner in which we make the best use of our housing stock using FTT's. There is also likely to be a valuable input to be had from tenant representatives and agencies dealing with housing support and advice.

We recognise the importance of reviewing this issue with reference to 'the bigger picture', and, in addition to the above, will seek to consider its impact on our housing need, homeless and allocations services, issues of vulnerability and special need groups amongst applicants for housing and tenants, etc.

3. Recommendation

It is proposed that the Housing Committee sets up a cross party T&F group to undertake a review of the guidance in terms of the implementation of fixed term tenancies, when this is released, and that it develops a draft policy, in consultation with relevant stakeholders for this committee to agree.

A timescale for the above is unclear at present, as guidance has not yet been issued, however, we do expect this earlier in the new year, and believe that fixed term tenancies may be implemented nationally thorough the HPA 2016, in October 2017. This means that a final strategic and policy approach will need to be approved by this last date.