

# ***Building a Housing Ladder of Opportunity***

**Hammersmith & Fulham Council**

# **Draft Tenancy Strategy**

## **Why the Council is issuing this document for consultation**

The 2011 Localism Act places a statutory duty on local authorities to produce a Tenancy Strategy, which should set out the local housing authority's approach to tenure reform in the social housing sector. This document is Hammersmith & Fulham's Draft Tenancy Strategy, setting out its approach to:

- Fixed term tenancies to be adopted by the authority in its landlord role
- Fixed term tenancies to be adopted by private registered providers
- Circumstances in which tenancies will be renewed

The Act requires the local housing authority to consult on its draft tenancy strategy with all registered providers of social housing in its district and the Mayor of London. In addition, the authority will be consulting with tenants and residents of the borough; private landlords and other individuals/groups who will/may have an interest in the outcome and implementation of the Tenancy Strategy. The authority will seek to ensure that the views of all groups identified are heard, and where possible incorporated, when formulating the final document.

This document also sets out the authority's position on the maximum rents to be charged for new Affordable Rent housing which may be developed by private registered providers as well as up to 50% of housing which is 're-let' by private registered providers in the future. This draft strategy is being issued in the Council's strategic role as the local housing authority. The Council in its landlord role is impacted by this document and is described as a 'registered provider' of affordable housing in this document. Housing associations are also impacted and are described in this document as 'private registered providers'. The Council has established a local housing development company which is a private registered provider which will also be affected by the Tenancy Strategy.

In tandem with this document, the Council is consulting on its Draft Housing Strategy, Draft Homelessness Strategy and Draft Scheme of Allocation, part of its Building a Housing Ladder of Opportunity programme of work. The Council's intention is to adopt a different housing approach, reflecting the new environment in which local housing authorities are now working. As well as reflecting the freedoms and flexibilities available to local housing authorities following the passing of the 2011 Localism Act, the new approach is intended to be more realistic, reflecting the difficult choices individual local housing authorities are having to make when seeking to meet its housing obligations and the impact this will have on housing register applicants' future expectations and choices.

The consultation period starts on **22 May 2012** and will end on **18 July 2012**. To submit your response, email [xx@lbhf.gov.uk](mailto:xx@lbhf.gov.uk) Contact [xx@lbhf.gov.uk](mailto:xx@lbhf.gov.uk) for more information on this process. The Council intends to adopt the final Tenancy Strategy in the Autumn of 2012

<b>Section</b>	<b>Contents</b>
<b>1.</b>	<b>Summary</b>
<b>2.</b>	<b>Hammersmith &amp; Fulham’s Housing Market</b>
<b>3.</b>	<b>What the Council is Seeking to Achieve</b>
<b>4.</b>	<b>Affordable Housing and the Ladder of Opportunity</b>
<b>5.</b>	<b>Flexible Tenancies - Our Proposed Approach</b>
<b>6.</b>	<b>Tenancy Renewal – Our Proposed Approach</b>
<b>7.</b>	<b>Working with Private Registered Partners</b>
<b>8.</b>	<b>Other Strategy Documents</b>
<b>9.</b>	<b>Affordable Rent Model</b>
<b>10.</b>	<b>Wider Housing Options</b>
<b>Annex A – 2011 Localism Act – Tenancy Strategy Abstracts</b>	
<b>Annex B – Tenancy and Ownership Descriptions</b>	
<b>Annex C – Glossary</b>	
<b>Annex D – Reference Documents</b>	

## **1. Summary**

- 1.1 The 2011 Localism Act places a statutory duty on local authorities to produce a Tenancy Strategy, which should set out the local housing authority's approach to tenure reform in the social housing sector.
  - Fixed term tenancies to be adopted by the authority in its landlord role
  - Fixed term tenancies to be adopted by private registered providers
  - Circumstances in which tenancies will be renewed
- 1.2 The Council intends to take full advantage of the opportunity to grant fixed term tenancies and expects private registered providers (mainly housing associations) to do the same. However, there may be a few exceptions where secure/assured tenancies will still be granted.
- 1.3 Private Registered Providers (known as housing associations to most people) are required to have 'due regard' to the authority's Tenancy Strategy and the authority expects such landlords to alter their policies over a reasonable timeframe to reflect the Council's position and priorities.
- 1.4 This document is focused on tenancies that are granted by registered providers – both the council in its landlord role and housing associations as private registered providers - which operate in Hammersmith & Fulham. It is not focused on who will be prioritised for the allocation of affordable homes and other accommodation: this is currently set out in the authority's Housing Allocation Scheme (July 2009) which is the subject of review in tandem with this document. The authority intends that the Tenancy Strategy will help deliver any revised objectives set out in the new Allocations Scheme.
- 1.5 It should be noted that the implementation of the Tenancy Strategy will not affect existing tenants housed by all registered providers, i.e., the Council in its landlord role and housing associations.
- 1.6 On adoption of this Tenancy Strategy, in line with s 150 of the Localism Act, the local housing authority must keep its tenancy strategy under review and may modify or replace it from time to time. In order to ensure the document is up to date and reflects changes in statutory and non-statutory strategy and policy, the Executive Director of Housing and Regeneration in consultation with the Lead Member for Housing will have the authority to review and amend the Tenancy Strategy. The local housing authority will publish the modifications as amended as appropriate, e.g., the Council's website and other means of communication.

## **2. Hammersmith & Fulham’s Housing**

- 2.1 Hammersmith & Fulham is the second smallest (excluding the City of London) in the capital but has one of the highest population densities in the country. The borough is also one of significant economic and social contrasts. There are approximately 82,000 homes in the borough, nearly a third of which are owned by the Council or other social landlords (c 26,000 homes) with the remaining two thirds (56,000 homes) being in private ownership. House prices as a whole in the borough are the fourth highest in the UK, but only between 1% and 2% of the stock is low cost home ownership housing which the Council is committed to increasing.

## **3. What the Council is seeking to achieve**

- 3.1 Hammersmith & Fulham is a very desirable location, hosting a range of major employers, leisure and retail facilities, underpinned by its growth and wider regeneration agenda. Households may wish to leave the borough for particular reasons. But it is important that the Hammersmith & Fulham housing market is as vibrant, accessible and affordable as possible, offering a range of housing choices, complemented by a wider borough ‘offer’ featuring schools of choice; quality parks; accessible health facilities and other community infrastructure that make places attractive to live.
- 3.2 The 2007/14 Community Plan sets out in clear terms the Council’s and its partners’ social, economic and environmental objectives. Who is able to access affordable rented housing has an important bearing on the chances of successfully delivering those objectives. The Housing Allocation Scheme (and associated documents such as Local Lettings Plans) defines the Council’s criteria for allocating affordable rented homes in the borough. This document centres on the kinds of tenancies that households who are allocated homes will receive in the future. One of the outcomes sought from the Tenancy Strategy is giving the council in its landlord role the power to grant fixed term tenancies, whilst also giving guidance to Private Registered Providers on what length and on what terms the Council would like them to grant tenancies.
- 3.3 Put simply, the authority believes that registered providers should have the opportunity to periodically review the housing needs of tenants who are granted tenancies. This does not automatically mean that tenants at the end of their fixed term tenancies will not be able to have their tenancies renewed. The rationale for granting fixed term tenancies issued by all registered providers are important for the following reasons:
- 3.4 **Secure Tenancies and Assured Tenancies** - At present, registered providers issue which are either local authority ‘secure tenancies’ or private registered providers ‘assured tenancies’. These are in effect self renewing ‘periodic tenancies’ where if the rent and service charges

are paid and there are no breaches of tenancy conditions, then tenants are likely to have the use of their homes for the rest of their lives.

- 3.5 In each instance household members, e.g., spouses, partners, children, can have succession rights which can mean the tenancies lasting for many decades, even if the household's needs change over that time. The commonly quoted example is the elderly person/couple in a three bedroom property whose children have left home, living in close proximity to a household which is overcrowded. Allowing for financial incentives, there are no sanctions available to the Council to address this situation.
- 3.6 By granting fixed term tenancies, registered providers will be able to regularly review household needs and ensure that the affordable homes that are available are allocated to those households who most need them, making best use of the homes available, meeting the criteria set out in the Draft Housing Allocation Scheme.
- 3.7 **Granting Tenancies to Working Households and those making a community contribution** – The Council intends to give greater priority to working households and other people making community contributions, such as ex armed services personnel in the future. More detail on how this work in practice is set out in the Council's revised Housing Allocation Scheme.
- 3.8 By granting fixed term tenancies, registered providers would be able to regularly review the status of such households, ensuring that the basis on which the accommodation was allocated still applies, e.g., because the applicant(s) was in training and employment. The Council intends to ensure that tenants who are allocated homes on this (or other community contribution basis) meet any agreed continuing contribution following the grant of a tenancy.
- 3.9 **Granting Tenancies to Households who have made / are making a Community Contribution** – The Council intends to give higher priority to households making a community contribution, such as former armed services personnel and working households. More detail on how this work in practice is set out in the Council's Draft Housing Allocation Scheme.
- 3.10 By granting fixed term tenancies, registered providers will have greater flexibility to accommodate different kinds of households on shorter terms to meet local needs and aspirations.
- 3.11 **Creating a Ladder of Opportunity: Connecting Social Housing to the Wider Housing Market** – Social housing has become increasingly 'residualised' due to people in the greatest need having the highest priority for available affordable housing, principally social housing. The authority already makes considerable use of private sector housing both within the borough and outside and envisages this to continue.

However, the Council wishes to see the social housing sector to be one of ‘choice’ for a wider section of the community rather than ‘need’. The Council also want the sector to be perceived as an important segment of the local housing market, which is a platform for progress to other housing options, i.e., a starting point, not a destination, as part of the housing ladder of opportunity approach. More detail on this approach is set out in Section 4 of this document. The Council also wishes future tenants to be making a greater contribution to the community and the economy and fixed term tenancies are potentially an effective means to structuring that arrangement.

- 3.12 By granting fixed term tenancies, registered providers will be able to enable a wider section of the community to occupy social housing to improve its accessibility and its perception to the wider community.
- 3.13 **Income and Wealth Levels** – In the past 30 years, social housing has been increasingly granted on the basis of need rather than aspiration. Before then, social housing was allocated to a wider range of people on low to medium incomes. The Council wishes to return to a scenario where income-earning households with a local connection are able to access affordable rented housing, but not those on high incomes or with significant wealth. The Council does not expect many tenants who are allocated affordable housing to benefit from a sharp increase in incomes and/or wealth. However, where this does occur, the Council will be unlikely to renew a tenancy, encouraging the occupant to consider options such as the right to buy, discount market sale or other housing options. Consequently, the newly vacant home in question could be used for an applicant in greater housing need.
- 3.14 By granting fixed term tenancies, registered providers will be able to review the tenants’ income and wealth position when considering a tenancy renewal. Where incomes and/or wealth are sufficiently high, such tenants will be encouraged to take up accommodation in other sectors of the housing market. This should be seen as an integral part of the Council’s ladder of opportunity approach.
- 3.15 **Anti Social and Criminal Behaviour** - In a small number of instances, some tenants and members of the household are committing anti social and/or criminal behaviour. The Council believes that such behaviour is unacceptable and considers that sanctions should be in place, with the ultimate sanction of eviction if the case demands it. .
- 3.16 By granting fixed term tenancies, all registered providers can review in consultation with housing management and agencies such as the police and anti social behaviour teams whether there is a case for not renewing the tenancy. The Council sees this as an incentive for occupants to be ‘good tenants’, as criminal and anti-social behaviour spoils the quiet enjoyment of other tenants’ lives. Fixed term tenancies should also be seen as an opportunity for tenants and/or household members who have a history of anti social and/or criminal behaviour to

rehabilitate themselves. In extreme cases, the Council will seek to exclude such tenants from accessing affordable housing altogether.

3.17 **Reducing Fraud** – The Audit Commission in its *Protecting the Public Purse 2009 Report* estimated that social housing tenancy fraud could be as high as 5% in London. The Commission defined tenancy fraud as:

- when people submit false housing applications
- tenancy succession fraud, where the property is no longer occupied by the original tenant; and
- the illegal sub-letting of a property for profit

3.18 Registered Providers will be given new powers to reduce such incidences, complemented by the Government's stated intention to make tenancy fraud a criminal, rather than civil, offence. The Council fully supports this change and will exercise their new powers where appropriate.

3.19 By granting fixed term tenancies, registered providers will be able to regularly review how the properties are being used, ensuring that the tenants who were granted the properties are the ones occupying them.

3.20 In **summary**, the authority considers there to be a compelling case for all registered providers to introduce flexible tenancies which in turn has influenced the approach that is set out in the Draft Housing Allocation Scheme. The social housing sector has for many years been seen as a stand-alone part of the housing market with very little relationship to the experience of other residents of housing, particularly working households, who live in the private rented sector. The Council is seeking to redress this position and integrate social housing within the housing market via plans outlined in this Strategy and other documents published in due course.

3.21 There is a broader issue of how the passing of the 2011 Localism Act can facilitate a major shift towards ensuring all affordable housing makes a greater contribution to accommodating the needs and aspirations of the borough's current and future residents. The key document to achieve that objective is the Housing Allocation Scheme which is the subject of a separate consultation exercise.

## **4. Affordable Housing and the Ladder of Opportunity**

4.1 A central theme to the Council's approach to affordable rented housing is to consider it as an important and flexible segment of the local housing market which provides a platform to other types of accommodation. Social housing for rent historically has been allocated to households in acute housing need and in some instances housing crisis where their personal circumstances require Council support. Affordable housing for rent offers support and shelter for people who



are experiencing such housing need or crisis. However, the Council would expect over time many, but not all, such tenants' needs to stabilise and that they will be able to move on to other housing options. This will enable homes that they vacate to be used for new households that require accommodation.

- 4.2 The Council wishes to change this approach. As part of its ladder of opportunity approach, the Council wishes a wider section of the community to be able to access affordable rented housing. Specifically, the Council intends to give greater priority to future applicants who are making a community contribution, such as ex armed services personnel and working households. The Council also wishes households whose incomes rise above a certain threshold, to access housing options in the private sector (e.g., private rented housing, discount market sale housing); other intermediate housing options run by private registered providers; or, where eligible, exercise their right to buy.
- 4.3 The Ladder of Opportunity set out below, illustrates affordable rented housing as one of a number of 'rungs' on a ladder. To emphasise the point, the Council sees affordable rented housing as a staging point for households' housing aspirations not a destination point. Annex B describes the characteristics of individual tenancy / ownership types.

**Ladder of Opportunity**

Freehold home ownership	Higher levels of income and wealth	Leasehold home ownership
Low Cost Home Ownership / inc Shared Ownership & Shared Equity		Private Rented Assured Shorthold Tenancy
Assured Tenancy / Assured Shorthold Tenancy		Secure Tenancy / Flexible Tenancy
Starter Tenancy		Introductory Tenancy
Non Secure Tenancy		
Living in Shared Accommodation		Living at Home
Homeless	Lower levels of income and wealth	Refuge / Hostel / Supported Accommodation

Note:

for more detailed housing tenancy and ownership descriptions, see Annex B.

- 4.4 Due to the high cost and restricted access to the home ownership market, it may not be possible for residents to reach the top of the ladder. It may also be the case that residents do not wish to reach the top of the ladder for personal reasons or simply move further afield to fulfil their aspirations, e.g., to live in a suburban location or move to new employment. Whilst the Council respects the right of residents to exercise choice, there will be limits as to what choices they can exercise at the expense of the public purse. Whether through the need to repay debt associated with historic capital expenditure on affordable housing or through financial limits imposed by the housing benefits regime, the Council has to ensure that available public and social sector housing assets and resources are used to maximum effect.
- 4.5 In that vein, the Council's approach to flexible tenancies is about ensuring that there is more movement between the affordable rented sector and other tenures, providing the necessary level of support where it is needed.

## **5. Flexible Tenancies - Our Proposed Approach**

- 5.1 In simple terms, the Council in its local housing authority role is recommending to all Registered Providers (i.e., the Council in its landlord role and housing associations) that fixed term tenancies are issued for the large majority of future affordable housing lettings. . All fixed term tenancies should be preceded by a one year introductory or probationary tenancy. This will not apply to transfer cases (including 'decant' cases) eligible for secure or assured tenancies. The fixed terms recommended are as follows:
- Five Year fixed term tenancies for proposed tenants who are nominated from the Council's Housing Register including those who meet the 'reasonable preference' criteria set out in current, relevant legislation
  - Two Year fixed term tenancies where the proposed tenant(s) is aged between 18-25 years old \*
  - Two year fixed term tenancies where the proposed tenant has a history of anti social behaviour or has been convicted, or pleaded guilty, to any offence of violence against person or against property.
  - Two Year fixed term tenancies for economically active households of any age where the Council in its Housing Allocation Scheme and/or a Local Lettings Plan has designated a special case for working households. It is intended the tenancy be a platform for stepping up to low cost home ownership.

- Two Year fixed term tenancies where the Registered Provider is seeking an intermediate or market rent
- Two Year fixed term tenancies where the Registered Provider has a regeneration proposal for the property concerned which may require vacant possession in the short term

All fixed term tenancies should be preceded by a one year introductory tenancy in the case of a secure flexible tenancy, or starter tenancy in the case of a housing association assured flexible tenancy (i.e., an assured shorthold tenancy).

\* In some instances, the Council will issue longer fixed terms, i.e., five years (see below for more information). The reason for setting shorter fixed terms for younger people is to help ensure they are able to take on the responsibilities associated with sustaining a tenancy. Future renewals following a satisfactory tenancy record may be for longer timeframes, e.g., five years.

5.2 In the case of tenants transferring from other affordable rented housing, tenants should be entitled to the granting of a similar tenancy. This will mean an existing secure or assured tenant should be offered a similar periodic tenancy by the recipient landlord. Put simply, a secure or assured tenancy should be offered a secure or assured tenancy. This does not preclude the council making an offer of a property on a flexible tenancy which meets the needs of the household.

5.3 Exceptions or variations to the fixed term tenancies identified above are as follows:

- Proposed tenants who are over 65 years old and/or wish to access sheltered housing should be granted secure or assured tenancies
- Proposed tenants who have special housing and/or health needs should be granted secure or assured tenancies\*
- Proposed tenants who are aged 18-25 who were previously in the care of the local authority and entitled to receive services under the Leaving Care Act should be granted five year fixed term tenancies (i.e. one year introductory tenancies and five year fixed term tenancies)

\* The Council will convene a Panel of senior housing officers who will have responsibility for designing and implementing the published criteria which will be applied and will consider any appeals that follow.

An applicant may seek a review of the offer of a flexible tenancy. He/she has 21 days from receipt of the notice stating the length of the tenancy to request a review. The review will consider whether the

decision on the proposed length of tenancy is in accordance with the Council's policy (as set out in the Tenancy Strategy and the Housing Allocations Scheme).

#### **5.4 Housing for Disabled Persons**

5.5 The Council is committed to retaining where possible housing that has been built and/or adapted for use by disabled tenants. Where a tenancy has been granted for a fixed term and a tenancy renewal is being considered, the Council would wish to ensure that there is a continuing disabled person's (or persons') need for the property. Where the current disabled tenant is no longer resident at that property for whatever reason, and there is a remaining joint tenant and/or household member(s) who are not disabled (and therefore do not need the adapted property), the Council (and its Private Registered Partners) will reserve the right to offer alternative (non-adapted) accommodation elsewhere in the borough. Any new tenancy will be granted on similar terms to their original tenancy (i.e., fixed term) and will reflect their housing needs. For example, where the original household need was three bedrooms and the changed housing need is two bedrooms, then the household will be offered a two bedroom property. Any such decision can be the subject of appeal to a panel of senior housing managers.

5.6 The Council's Housing Options team and the Council in its registered provider landlord role will be able to advise tenants on any general or specific tenancy issues (See Section 10 for more information).

#### **5.7 Council Tenants Affected by Regeneration Schemes**

5.8 The Council Tenant Guarantee set out in the Core Strategy (Oct 2011) states the following:

*The Council has given assurance to tenants and leaseholder who might be affected by the regeneration of council housing estates in a statement included in the H&F Homes Magazine of autumn 2009. The assurances are repeated here so they can be read with the Core Strategy proposals and policies:*

*If regeneration proposals come forward on your estate in the next 20 years H&F Council and H&F Homes guarantee:*

- *We would offer a permanent home in the area*
- *Rent levels will continue to be set by Government at a rate which is affordable*
- *The chance to buy a home in any future development at low cost*
- *Full involvement in any future plans or proposals*

Source: LBHF Core Strategy (Oct 2011) - Sections 6.6-6.7

- 5.9 In interpreting a ‘permanent home’, this would construe a secure or assured tenancy rather than a fixed term tenancy as described in Annex B of this document. Local authority rent levels are likely to change following the implementation of the Housing Revenue Account self financing regime.
- 5.10 This Draft Tenancy Strategy and its successor document do not change the commitments to Council tenants affected by regeneration schemes set out in the Council’s Core Strategy (Oct 2011).

## **6. Tenancy Renewal – Our Proposed Approach**

6.1 The Council is required by the Localism Act legislation (see s150 in Annex A) to set out the circumstances in which tenancies will be renewed. This section sets out the Council’s proposed approach to tenancy renewal. This will apply to accommodation owned and managed by the Council in its landlord role. In addition, the Council in its local housing authority role expects Private Registered Providers (PRPs), principally housing associations, to align their own approaches to that set out in this Tenancy Strategy as soon as reasonably practicable. The Council’s proposed approach is straightforward and will take the following sequence.

6.2 Put simply, **the Council expects a large proportion of tenancies to be renewed where tenancy conditions have been met and the tenant’s (or tenants’) circumstances have not substantially changed.** However, there should not be a presumption that a tenancy will be renewed. The Council wishes to create incentives for tenants and household members to keep their homes in good condition; pay rent on time; avoid anti-social behaviour and so on. Circumstances where a tenancy might not be renewed could include under-occupation of the home; persistent late and/or non-payment of rent and service charges; anti-social behaviour including causing loss of other tenants’ quiet enjoyment of their home.

6.3 The Council will adopt the following approach to tenancy renewals:

Stage 1 - Nine months before the tenancy is due to expire, write to the tenant(s) concerned asking them to submit a new Housing Register application to continue remaining in the property they occupy.

Stage 2 - During the six and nine months period before the tenancy is due to expire, the Council will review the tenant(s) housing needs and state before the six months date of expiry whether it is minded to renew the tenancy or not and give appropriate reasons for the latter. Where the tenant does not submit an application form within seven months of the expiry date, the Council will take the view that the tenant(s) does not wish to continue occupying the home.

Stage 3 – The tenant(s) will have the opportunity to ask the Council to review a decision (as set out in the Government Regulations) where a notice of non renewal has been issued. This must be requested by the tenant(s) within 21 days of the notice. The review will consider whether the decision not to renew is in accordance with the Council's policy (as set out in the Tenancy Strategy and the Housing Allocations Scheme).

Stage 4 - In the event that the review process has been unsuccessful for the tenant, a notice will be issued to the tenant(s) giving at least two months notice stating that the Council requires possession. This notice must be issued on or before the fixed term expires.

6.4 As set out in Stage 1, where tenants wish to have their tenancy renewed, they will be invited to submit a fresh housing register application. This will in effect be a consideration of the original application with any updated information (e.g., contact details; ages of children; place of work; disability issues; special considerations, etc). The onus will be on the tenant to ensure that the housing registration form is fully completed and submitted in good time for consideration. Housing Options staff can assist with this process. The Council would expect to consider the application during the fourth and fifth month before the tenancy is due to expire. At the three month point before the tenancy is due to expire (if not before), the Council will inform the applicant of the renewal decision, subject to the milestones set out in the relevant stages above being adhered to.

#### **6.5 Tenancy Succession**

6.6 With flexible tenancies (i.e., local authority and private registered providers) there will be no right of succession, apart from the statutory rights of a spouse, civil partners or partner which will not entail the creation of a new tenancy. On the death of a joint tenant, the surviving joint tenant will become the sole tenant and is the successor for the purposes of legislation. Where there is no tenancy succession, the Council will seek possession of the home within a reasonable timeframe, not more than six months. More detail on tenancy succession can be found in section 3.35 – 3.41 of the Draft Housing Allocation Scheme.

#### **6.7 Multiple Needs**

6.8 The Council will have due regard to the multiple needs of applicants and will liaise with other departments of the council, principally Children's and Adults' Services. The onus will be on the applicant to inform Housing Options of any needs and existing contact they have with other council officers to ensure the respective needs can be taken into account. The Council understands the scale and scope of some vulnerable households needs. The Council will seek to ensure that necessary advice and support is made available

## **6.9 Length of Tenancy Renewals**

6.10 Where the Council renews tenancies, these will generally be for the same period that they were originally granted, except in the case of 18-25 year old groups who will move from two year tenancies to five year tenancies, i.e., one year introductory tenancy and four year fixed term (subject to the tenant's/tenants' wishing to renew their tenancy) if the Housing Registration criteria identified above have been met. In exceptional circumstances, a 2 year tenancy may be granted following a 5 year term if there has been a breach of one or more of the conditions of tenancy. There will be no introductory (or probationary) tenancy for renewals unless there are exceptional circumstances which will be considered and approved by the panel of senior housing officers. Such circumstances could include persistent late and/or non-payment of rent and/or service charges; anti-social behaviour including causing loss of other tenants' quiet enjoyment of their home.

## **6.11 Tenancy Renewal Appeals**

6.12 The Council's panel of senior housing officers will consider any appeals relating to decisions arising from the adoption of this strategy. This will principally apply to decisions on length of tenancies and renewals thereof and will consider any related Scheme of Allocation issues. Any further appeal will be considered by the Director Housing Options whose decision will be final. This does not preclude the appellant who considers the Council to be in breach of the tenant's statutory rights from legally challenging at their own risk any decision the Council makes.

## **6.13 Where Tenancies are not Renewed**

6.14 Where tenancies are not renewed for whatever reason, e.g., income and wealth levels above a certain threshold (as set out in the Housing Allocations Scheme) or the household is under-occupying, the Council will offer advice and support on future housing options.

## **6.15 Equalities**

6.16 Historically, affordable accommodation has been sought and secured by equality groups members, e.g., the elderly; the disabled; lone parents; applicants from black, Asian and minority ethnic backgrounds. The Council expects this trend to continue, notwithstanding its commitment to broadening access to affordable accommodation. The Council in all its work will seek to ensure that the specific needs and aspirations of equality groups relating to tenancy and tenancy renewal matters are in line with its statutory obligations. The Council will also seek to ensure that appropriate reasonable attention is given to specific requirements and needs of specific equality groups as they arise.

## **7. Working with Private Registered Providers**

- 7.1 Section 6 of this document sets out the Council's proposed approach to flexible tenancies, i.e., for future council tenancies. This section focuses on Private Registered Providers (normally housing associations). They are required to have 'due regard' to the Council's proposed approach and consider how they intend to take it into account in the operation of their own tenancy regime.
- 7.2 The Council needs to work closely with Private Registered Providers to:
- help the Council develop its overall approach
  - take account of the final policies set out in the adopted document, and
  - assist the Council in delivering the new approach
- 7.3 In regard to a flexible approach to tenancies, Private Registered Providers have had the freedoms and flexibilities for many years that the Council has not had access to. For example, Private Registered Providers have been able to issue Assured Shorthold Tenancies (ASTs) since the 1988 Housing Act which have been particularly useful for their intermediate housing sub-market rented products.
- 7.4 Private Registered Providers own and manage approximately 13,000 homes in the borough, roughly equivalent to that owned and managed by the Council. They are therefore an important partner with the Council in meeting its affordable housing objectives. They have a strong record of delivering a wide range of products ranging from delivering supported housing for vulnerable groups; social housing at target and convergent rents; affordable low cost home ownership and sub-market intermediate rents. In the near future, the Council expects Private Registered Providers to be delivering a new kind of affordable housing – Affordable Rent – which will be let at rents (including service charges) at up to 80% of market levels. This will include up to 50% of Private Registered Providers' re-let homes, e.g., existing homes that become empty and available to let for new households. In effect, the rents charged would convert from 'target' social rents to 'Affordable Rents'
- 7.5 There is strong evidence already that Private Registered Providers are adopting fixed term tenancies for new Affordable Rent products. This is in response to the low level of grant available for the new product; the greater risk associated with collecting a higher rental charge; and, to anticipate the Tenancy Strategies that will be adopted by local housing authorities.
- 7.6 The Council expects Private Registered Providers to change their tenancy policies to reflect the objectives set out in the final Tenancy



Strategy, as set out in Section 6.1 of this document. Many Private Registered Providers operate in a number of boroughs and may be under some pressure to adopt different approaches, to reflect differing policy positions. However, notwithstanding the administrative issues, the Council believes that Private Registered Providers can adopt a flexible approach which accommodates the local priorities set out in this Tenancy Strategy.

## **8. Other Strategy Documents**

- 8.1 In preparing this Draft Tenancy Strategy, the local authority is required under Section 151 (3) of the 2011 Localism Act 'to have regard' to its:-
- current scheme of allocation
  - homelessness strategy; and,
  - the Mayor's London Housing Strategy (currently revised edition Dec 2011).
- 8.2 The information set out below, sets out how the Council has had regard to the documents identified and also referenced its approach to the 2010 Equalities Act.
- 8.3 In preparing this Tenancy Strategy, the Council has had regard to the Hammersmith & Fulham Allocation Scheme (July 2009) Second Edition (also known as the Council's Scheme of Allocation) and the Mayor of London's Revised London Housing Strategy (Dec 2011).
- 8.4 In tandem with this Tenancy Strategy, the Council has prepared draft documents setting out its approach to its housing strategy; housing allocations scheme; and homelessness.
- 8.5 **2010 Equalities Act** – The Council will need to ensure that the Tenancy Strategy meets equality requirements set out in the Act, ensuring that the nine protected characteristics which cannot be used as a reason to discriminate against people unfairly. The nine characteristics are as follows: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation. The Council will seek to ensure that this Tenancy Strategy meets the 2010 Act requirements and will publish an equalities impact assessment to set out how it has achieved this objective.

## **9. Affordable Rent Model**

- 9.1 The Council recognises that the Coalition Government has introduced a new Affordable Rent model for some new homes provided by Registered Providers and for up to 50% of re-lets by some providers in the borough. The Council will wish to discuss proactively with providers how these opportunities can be used to meet its key objective of increasing full or part home ownership in the borough, and how

resulting proceeds can be both retained locally and recycled for further housing investment in Hammersmith & Fulham.

- 9.2 The Council in September 2011 adopted an interim policy on the Coalition Government's new Affordable Rent model. The maximum weekly Affordable Rent that the Council at present expects Registered Providers to charge for new homes and conversions (up to 50% of re-lets) are as follows:

1 bed rent of no more than £250  
2 bed rent of no more than £290  
3 bed rent of no more than £340  
4 bed rent of no more than £400

Note: Interim policy rents will be revised on an annual basis and advertised on the Council's website.

- 9.3 These rental costs are to include service charges and these costs will be reviewed on an annual basis.
- 9.4 The rents described above are higher than 'target rents' which are charged for mainstream social housing. With the advent of the Government's wider welfare reforms, particularly the Universal Credit caps identified above, both housing applicants, the Council in its advisory role and registered providers will need to take greater care in understanding whether a proposed tenant(s) is able to sustain the tenancy granted. By this is meant the tenant being able to afford to pay rent and all other associated property costs for the home, with the additional consideration of tenants receiving their universal credit direct and paying their housing costs to the landlord concerned. Prospective tenants may require their own advice to consider affordability issues.
- 9.5 From April 2013, the Council is adopting the following approach to Affordable Rents in the borough: Private Registered Providers (PRPs) will be expected to maximise the rent that can be charged for new affordable rent schemes and for up to 50% of homes that are re-let. In line with the draft Housing Allocation Scheme, the Council intends to give greater housing priority to working households whilst also encouraging entry to home ownership.
- 9.6 The Council recognises that Affordable Rents for new individual property types are likely to involve a degree of scheme-level cross-subsidy, i.e., higher rents on smaller properties supporting lower rents on larger properties. This will provide the basis for Registered Providers to deliver large family accommodation (i.e., three bedrooms or more) with rental and service charge costs that stay within the housing benefit caps and the Universal Credit caps due to be implemented in 2013. At a strategic level, where additional revenues are accrued from the Affordable Rent scheme, the Council would want

to see such revenues used for more, innovative low cost home ownership schemes in the borough.

- 9.7 The Council's approach to Affordable Rent levels is straightforward. When setting rents, Private Registered Providers will be expected to review the private sector rents for the relevant Broad Rental Market Area (BRMA); reduce the rent charged at the 30<sup>th</sup> percentile by 20% for the relevant bedroom sizes; ensure that service charges are included within the proposed rent charged; propose a inflation increase based on Retail Price Inflation (RPI) to tie in when the respective homes will be available for letting. In the case of Supported Housing schemes, taking account of increased management costs, the approach to rents will be discussed on a scheme by scheme basis.

## **10. Wider Housing Options**

- 10.1 The Council's Housing Options Team offers a wide range of advice for people seeking homes in the borough. Annex B of this document are descriptions of the various housing options that individuals/householders in Hammersmith & Fulham have access to.
- 10.2 For the future, the Council intends to deliver the regeneration of five key opportunity areas in the borough, which can deliver 20,000 additional homes and associated economic and community infrastructure. The Core Strategy target of 40% of additional housing being affordable – principally low cost home ownership and affordable rent housing – will mean more affordable housing to access, but over a twenty year timeframe.

Housing Options Advice can also be downloaded from:  
[http://www.lbhf.gov.uk/Directory/Housing/Housing\\_advice/](http://www.lbhf.gov.uk/Directory/Housing/Housing_advice/)

End

## **Annex A: 2011 Localism Act – Tenancy Strategy Abstracts**

### **Chapter 2 Social Housing: Tenure Reform**

#### **Tenancy Strategies**

##### **S 150 Tenancy Strategies**

(1) A local housing authority in England must prepare and publish a strategy (a “tenancy strategy”) setting out the matters to which the registered providers of social housing for 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 certain kind,
- (c) where they grant tenancies for a term certain, 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

(2) The tenancy strategy must summarise those policies or explain where they may be found.

(3) A local housing authority must have regard to its tenancy strategy in exercising its housing management functions.

(4) A local housing authority must have regard to its tenancy strategy before the end of the period of 12 months beginning with the day on which this section comes into force.

(5) A local housing authority must keep its tenancy strategy under review, and may modify or replace it from time to time.

(6) If a local housing authority modifies its tenancy strategy, it must publish the modifications or the strategy as modified (as it considers appropriate).

(7) A local housing authority must –

- (a) make a copy of the everything published under this section available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and

- (b) provide (on payment if required by the authority of a reasonable charge) a copy of anything so published to any member of the public who asks for one.

(8) In this section and section 151 (preparation of tenancy strategy) –

- (a) references to a registered provider of social housing for a district are to a registered provider who grants tenancies of dwelling-houses in that district, and

(b) “district”, “dwelling-house” and “local housing authority” have the same meaning as in the Housing Act 1985

### **S 151 Preparation of a Tenancy Strategy**

(1) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must –

(a) send a copy of the draft strategy, or proposed modification, to every private registered provider or social housing for its district, and

(b) give the private registered provider a reasonable opportunity to comment on those proposals.

(2) Before adopting a tenancy strategy, or making a modification to it reflecting a major of policy, the authority must also –

(a) consult such other persons as the Secretary of State may by regulations prescribe, and

(b) in the case of an authority that is a London borough council, consult the Mayor of London

(3) The authority must, on preparing or modifying a tenancy strategy, have regard to –

(a) its current allocation scheme under section 166A of the Housing Act 1996

(b) its current homelessness strategy under section 1 of the Homelessness Act 2002, and

(c) in the case of an authority that is a London borough council, the London housing strategy

End

## Annex B – Housing Tenancy and Ownership Descriptions

This section briefly describes the different types of home ownership and tenancy types that exist and the new ones that are being created. It also helps illustrate the Council’s ‘ladder of opportunity’ approach to housing described above.

<b>Tenure</b>	<b>Key Features</b>
Freehold Home Ownership	The occupier owns the deeds to both the home and the land on which the home is built. Where the occupier has a mortgage with a financial institution, the institution owns the deeds until the mortgage is paid off. Service charges do not generally apply to freehold owners as they are responsible for the upkeep of their own home and the land on which it is built.
Leasehold Home Ownership	The occupier owns a lease of a flat or maisonette for a fixed term with the freehold owned by another party. The same mortgage principles described above apply to lessees. The fixed terms for a lease granted by a local authority in a right to buy context is normally 125 years. In this instance, the tenant effectively buys the use of the property concerned with associated access rights to and from the property through the freeholder’s common and environmental areas, for which will be expected to pay a service charge for. In addition, contributions will be expected from time to time for works required to elements of the building such as the roof, windows, communal heating, lift systems, etc. These same rules generally apply to home owners who purchase leasehold homes in the market sector.
Shared Ownership & Shared Equity	Created as a response to a gap in the market where potential purchasers were unable to afford a home to buy on the open market, but were not eligible for social housing. Purchasers in tandem pay both a mortgage to a financial institution and a below market rent and service charge to a private registered provider. This will be based on the ‘tranche’ that the purchaser has bought which will normally start at 25%-40%. Purchasers generally have the opportunity to ‘staircase up’ which enables them to purchase the property outright on a leasehold ownership basis as described above. Shared Equity is where another party, usually through a Government sponsored scheme, offers a discounted interest loan to buy part of the property in addition to that finance raised by the purchaser.
Secure Tenancy	These are tenancies granted by local authority registered providers. Created under the 1985 Housing Act, consolidating previous legislation on public sector tenancies these are ‘periodic tenancies’ by which is meant they are self renewing provided that the rent and

	service charges are paid and no conditions of tenancy are breached. Eligible tenants have the right buy.
Flexible Tenancy	The new flexible tenancies for local authorities will be to all intents and purposes the same as secure tenancies as described above, but will have fixed terms. Eligible tenants have the right to buy.
Assured Tenancy	Similar to secure tenancies, these are also periodic tenancies granted by housing association private registered providers. Created under the 1988 Housing Act, consolidating legislation on (what were then) generally called housing associations, but for the purposes of the legislation called registered social landlords. Eligible tenants often have the right to acquire, but the charitable status of some private registered providers does not allow for this right.
Probationary Tenancy	In Hammersmith & Fulham, these are granted by the council to new tenants for one year before a 'secure tenancy' is granted.
Assured Shorthold Tenancy	Created under the 1989 Housing Act, to all intents and purposes these tenancies are similar to Assured Tenancies, but are for fixed terms of a minimum of six months but are often granted for one year; rents are not controlled by government regulations; and there are no rights to buy or tenancy succession. These are used by Private Registered Providers for intermediate housing purposes (e.g., sub market rented housing) and extensively by private landlords.
Licensee	Licences have been used for 'short life' housing purposes. This is where homes that are planned for demolition or major refurbishment but the timeframes are either long or uncertain. There can be a case using a 'short life' approach to such homes although this approach is less used presently. A licence gives very few rights to licensees which can be summarised as a 'bare permission to occupy'.

Other forms of occupation arrangements include sharing arrangements where groups of adults will jointly take up a tenancy (usually on an Assured Shorthold Tenancy basis).

For Private Registered Providers, flexible tenancies will be Assured Shorthold Tenancies instead of Assured Tenancies.

## **Annex C – Glossary**

**Affordable Rent** – “Rented housing provided by registered providers of social housing, that has the same characteristics as social rented housing except that it is outside the national rent regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rents.” Source: CLG. Planning Policy 3: Planning for Housing – Technical change to Annex B, Affordable Housing Definition. CLG, 2011.

**Intermediate Housing** – Affordable housing for rent and/or ownership for working households on low to medium incomes who are ineligible for social housing and unable to afford market housing

**Market Housing** – Housing for sale or for private rent.

**Mayor of London** – The strategic authority for planning and housing in London.

**Private Registered Providers** – For the purposes of this document, the title of Private Registered Providers is used to describe housing associations, also known as Registered Social Landlords.

**Registered Providers** – Generic title given to organizations formerly known as Registered Social Landlords (also known as housing associations) and local authorities who own and manage council housing. In some instances, managers of council housing are arms length management organisations, who are also Registered Providers.

**Social Housing** – Affordable housing provided by local authority landlords (on secure tenancies) or housing associations (on assured tenancies) charged at ‘target’ rent.



## **Annex D – Reference Documents**

1. Audit Commission - Protecting the public purse 2009
2. LBHF Housing Allocation Scheme (July 2009) Second Edition
3. Mayor of London's A Revised London Housing Strategy (Dec 2011)
4. LBHF Core Strategy (October 2011)
5. Hammersmith and Fulham Community Strategy 2007/14 (September 2007)
6. HMG Laying the Foundations: A Housing Strategy for England (Nov 2011)
7. Tenant Services Authority - The regulatory framework for social housing in England from April 2012
8. Statutory Instruments - 2012 No 695 Housing England – The Flexible Tenancies (Review Procedures) Regulations 2012