



# SECTOR SHOWCASE: FIXED TERM TENANCIES



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## INTRODUCTION

The term 'fixed term tenancies' refers to both:

- **flexible tenancies** - a new form of tenancy introduced by the Localism Act 2011 which can be used by local authorities. A flexible tenancy is a time-limited form of secure tenancy and carries many of the same rights as a secure tenancy
- **assured shorthold tenancies, granted for fixed term** - a form of tenancy granted by housing associations where they wish to let a property for a fixed period of time.

The government introduced fixed term tenancies through the passing of the Localism Act 2011 and by making changes to the regulatory framework for social housing, which removed the requirement that all social landlords 'offer the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'. As a result, both local authorities and housing associations gained the legislative and regulatory freedom to offer fixed term tenancies, in most cases with effect from April 2012.

The uptake has been relatively low - only around nine per cent of social rent, general needs council lettings and around 18 per cent of housing association lettings were made on a fixed term basis in 2015/16. However, this may change as measures included in the Housing and Planning Act 2016 will make it mandatory for all local authority landlords to grant fixed term tenancies in the future.

More information about this change is set out in our briefing on [what you need to know about the Housing and Planning Act 2016](#).

This sector showcase aims to see how the use of fixed term tenancies has evolved since their introduction five years ago - it focuses on case studies of organisations who have adopted fixed term tenancies and their observations of how they have worked in practice. It is intended to support others to determine or refine their approach.

## INGREDIENTS FOR SUCCESS

The case studies in this sector showcase identified the following areas as the essential building blocks which are integral to the successful implementation and management of fixed term tenancies.

## SET CLEAR OBJECTIVES FROM THE OUTSET

In deciding whether or not to make use of fixed term tenancies, the starting point should be to consider the strategic objectives that you want to achieve. Having a clear understanding of your goals and what success would look like will make it easier to determine your approach and to take key decisions about how you might implement fixed term tenancies.



Since their introduction, organisations have cited the following objectives as driving their use of fixed term tenancies:

- make the best use of housing stock, by ensuring that the right person is in the right home at the right time.
- encourage tenants to explore other housing options, like low-cost home ownership or the private rented sector
- support tenants in their wider aspirations, for example in gaining employment
- support tenancy sustainment, for example vulnerable people or particular groups of people develop the right skills they need to successfully manage a tenancy
- tackle specific housing management issues, such as anti-social behaviour (ASB) and/or other breaches of tenancy
- maximise revenue for development, by using fixed terms in conjunction with affordable rent.

This will then help to determine:

- whether you are going to apply fixed term tenancies across the board, for all of your new lettings, or selectively depending on specific property types or according to the needs of an individual household
- what length of tenancy you are going to use. The regulatory framework requires that, in most cases, this should be no less than five years, however you may use a longer term if you wish to and you are also able to use shorter terms, of no less than two years, in 'exceptional circumstances'

- whether you are going to apply an income cap and at what level you will set this.
- what criteria you are going to apply to decide whether to renew a tenancy at the end of the fixed term.

## UNDERSTAND THE IMPACT OF INTRODUCING FIXED TERMS

While exploring how fixed term tenancies might help you to achieve your strategic objectives, an important strand of that work will be to look at the evidence and consider their likely benefits. Making your decisions on the basis of the evidence will give your position more strength and make it more likely to last, following future reviews or changes in management and/or administration (for local authorities).

Before you start, ideally you will want to:

- map whether using fixed term tenancies will be likely to achieve your intended outcome(s), taking into account the profile of your tenants, the profile of your stock and the nature of demand in your area. In doing this, you should also think about any factors that might be likely to change the nature of demand in the future, for example, some elements of welfare reform
- consult with residents and key stakeholders
- weigh the potential benefits that fixed term tenancies may bring you with the costs that you are likely to incur in preparing to implement them and in managing them on an on-going basis.



## GET PEOPLE ON BOARD

Since fixed term tenancies apply only to new tenants, you may find that existing tenants are not concerned by their introduction. However, some organisations have reported that their existing tenants felt that fixed terms would go against the principle of stable communities and that they were concerned about their own and their children's security of tenure.

Where there is in principle opposition to using fixed terms tenancies, it is important not to dismiss their use without giving proper consideration to their potential benefits. Working with staff, tenants, councillors and/or board members on the practical implications of your policy, to explain how it could actually operate in practice and what it could help you to achieve, is often an effective way of overcoming initial resistance.

## GET THE PRACTICALITIES RIGHT

Implementing fixed term tenancies can be resource intensive, especially in the early stages.

Managing these tenancies may pose different challenges to lifetime tenancies, as more visits and reviews are involved and often there are different expectations from the landlord about tenancies. You should think about the provision of services that you will have included as part of your new tenancies, and at the very least the housing options advice provided at the end of the tenancy. Additionally you should think about the adjustments or changes in operations, processes and systems in your organisation, to make sure that you are well equipped to let out properties on fixed terms, and manage tenancies and your stock accordingly.





## BERNESLAI HOMES

Berneslai Homes is the ALMO for Barnsley Council managing around 18500 homes. These are spread across 40 or 50 villages and two towns; the majority are two or three bedroomed houses and one or two bedroomed bungalows. Demand in the area is generally high with pockets of low demand with flats being less popular generally.

There is a waiting list of about 7000 people and turnover of around 1500 lets per annum.

## SETTING CLEAR OBJECTIVES FROM THE OUTSET

Berneslai has a preference of offering assured tenancies, but has two objectives for fixed term tenancies; to support vulnerable tenants and to make better use of their stock.

A two year fixed term tenancy, linked to the person, is granted in situations where there is a risk of tenancy failure or where they would otherwise be excluded from Berneslai's housing e.g. where there are substance misuse issues or previous arrears. About 40 of these tenancies are issued each year.

A five year tenancy, linked to the property, is offered for accommodation where there is higher demand but less supply e.g. larger accommodation (four bedrooms+) or accommodation that has been significantly adapted.

An introductory followed by a secure tenancy is still granted as the main offer to waiting list applicants.



## GETTING THE PRACTICALITIES RIGHT

Berneslai view fixed term tenancies very much as part of a wider toolkit to reduce the risk of tenancy failure and to end tenancies where necessary. They emphasised the importance of having all policies, procedures and documentation in order before starting to grant fixed term tenancies. This is especially the case with documentation for the tenant - be clear what type of tenancy you are giving, why this is and what is expected of the tenant.

They have put in additional housing management resources to support tenants with a two year fixed term tenancies. Staff carry out additional visits, identify support needs and refer to other agencies for support. Engagement can be a condition of tenancy but this is not always the case.

Reviews begin eight months prior to the end of the tenancy. This gives them enough time to serve a notice if another tenancy is not being granted. Their review process is largely a desktop one where there have been no issues with the tenancy. Where a tenancy is not going to be renewed there is a right to review the decision - this would be a face to face meeting with the tenant.

Berneslai are awaiting guidance from the government on the mandatory use of tenancies but are concerned that following the initial tenancy term they would have 1500 tenancies to review on an annual basis - this will create a lot of work for them.

## LESSONS LEARNT

Berneslai have found the two year tenancies highly successful. Their staff speak very highly of them as a tool to manage tenant behaviour and provide support where it is needed. Where a tenancy reaches the two year point without problems it is made into a full secure tenancy. Of the 40 two year tenancies issued per annum, around five fail. This shows the strength of taking a planned and properly resourced approach.

Berneslai say it is hard to gauge the impact of five year tenancies are going to have as it is only midway through the term for most of them. The presumption is that they will be extended by another five year tenancy where there is no change of circumstances and no management issues.





# family. mosaic



## FAMILY MOSAIC

Family Mosaic manage around 25 000 units of social, affordable and leasehold housing and also housing with care and support. Most of their stock is in London but they also have some stock in Essex. The organisation has granted around 1500 fixed term tenancies since 2012.

## SETTING OBJECTIVES AT THE OUTSET

Family Mosaic view fixed term tenancies as tool to develop tenants with a view to them moving out of social housing; their view is that paying a lower rent is an opportunity to access low paid work and have a decent standard of living whilst working to better your circumstances. They grant five year fixed term tenancies and these are used to incentivise work and self-development. Where prospective tenants are within five years of pensionable age or stand no chance of gaining paid work, Family Mosaic continue to grant assured tenancies.

Living in a fixed “social rent” tenancy is conditional on actively seeking work and engaging with the support and training provided. The tenancy is very much viewed as a project with an outcome in mind from the start; rather than viewing the tenancy as the end of something, Family Mosaic view it as the start of something - an opportunity to gain employment and move into shared ownership. This can happen in the property the tenant is already living in if there are no constraints; any grant is then recycled. Where the property cannot be transferred into shared ownership an alternative will be found. Family Mosaic will either end the tenancy, (a tenancy may be ended for non-engagement or where it is underoccupied), offer another five year fixed term tenancies or transfer the tenant to their shared ownership product, where there is income to support this.



## GETTING PEOPLE ON BOARD

Family Mosaic have had less success than they expected. In implementing fixed term tenancies they found that there were internal and cultural issues that they hadn't adequately addressed.

The in-house employment and housing management services were in a passive, service delivery mindset but the change to fixed term tenancies needed them to be pro-active and reach out to people. The organisation was not adapted to pro-active service delivery; this will need significant resources.

As a result Family Mosaic emphasised the need to work with people from an early stage and to ensure that the organisation's culture and systems are set up to deliver the objectives

Family Mosaic found that the necessary organisational cultural and social changes took longer than expected. They found it was problematic to argue the case for fixed term tenancies politically and to sell the value of them to the staff implementing them. The staff are coming on board with it now.

They also emphasised the importance of having the right conversations with the tenant from the outset and being clear about what type of tenancy is being offered and what the expectations are of the tenant.

## GETTING THE PRACTICALITIES RIGHT

Family Mosaic also emphasised the importance of monitoring performance information. They started to develop IT systems to monitor progress but this is not currently as advanced as they would have liked. Their plan was to

have an electronic "tenant logbook" where tenants could record the steps they are taking to get into work. The organisation could then report centrally on the number of tenants who had updated the log book to better guide their strategy. This is still their plan but it requires further development.

Family Mosaic review fixed term tenancies at 10-12 months, two and a half years (the mid-point) and then six months before the end of the tenancy. A financial assessment and target setting is completed at sign up and the tenant must agree to maintain the digital logbook (mentioned above) - this will then also be reviewed as part of the process.

## LESSONS LEARNT

Family Mosaic view fixed term tenancies as a way of effecting social change and improving the lives of their tenants. But they found that social change takes a long time and found that they had not factored this into their plans. They emphasised the importance of getting staff on board with the change and selling the value of fixed term tenancies to them at an early stage. This also applies to tenants and having the right conversations with them from the outset.

Family Mosaic also saw the need to monitor the progress of both tenants and the organisation from an early stage. They designed a "digital logbook" to do this. Through this they will be able to both assess individual progress when deciding whether or not to renew a tenancy; and also organisational performance by looking at tenants' progress as a group via the system and using this to guide their strategic decisions.





## RADIAN

Radian own and manage c. 21 000 properties which includes their whole portfolio. Approximately 16 500 of these are general needs properties. They operate across the south east across a geography reaching from Bournemouth to Windsor . They were one of the first organisations to use fixed term tenancies.

Radian's stock is spread across 32 local authorities, they have found that this can make it difficult to balance the different priorities.

There is high demand for housing generally in the south east and Radian's social and affordable housing in particular.

## SETTING CLEAR OBJECTIVES FROM THE OUTSET

Radian are using fixed term tenancies to make the best use of their stock. They began by using them in their "affordable rent" stock because of the requirement to do so but have expanded to their social stock in order to make the most efficient use of it. They are currently assessing what resources will be necessary to conduct the first tranche of reviews and also how this may intersect with the increased duties around homelessness in the Homelessness Reduction Bill. Radian also has the facility to grant a two year tenancy where other options are not available.



## UNDERSTANDING THE IMPACT

Radian have taken a longer term view of fixed term tenancies by issuing seven year tenancies. The first reviews are due in 2017/18. As fixed term tenancies are used largely to deal with issues of under occupation, Radian understand that the main impact will come in 14-21 years time as children of current tenants leave home. Radian's policy counts children as part of the household until they are 21 to allow for full time education.

Their review process starts 11 months before the end of a tenancy. There is a workflow built into the IT system for this. Their review is a desktop exercise to look at tenancy conditions and occupancy of the property.

## LESSONS LEARNT

Radian were concerned that adopting fixed term tenancies would have a negative impact on their business. Despite their apprehension, they have found fixed term tenancies not to have made a difference to lettings, they have as many applicants as ever for housing.

Radian speculate that attitudes have changed and people are more accepting of shorter term tenancies.

Radian also emphasised that they realise the importance of data-collection and doing some modelling regarding their use of fixed term tenancies. This is the next stage of their work.





## RIVERSIDE

Riverside is a national provider of social and affordable housing and also care and support. Their stock is mostly social/affordable housing with lesser numbers of care and support and low cost home ownership. Their properties are in 163 local authorities which makes consistency of approach difficult, they are trying to reduce their footprint - although around 75% of their stock is in only 13 Local Authorities.

## SETTING OBJECTIVES AT THE OUTSET

Riverside still use lifetime tenancies for most of their lettings. They introduced five year fixed term tenancies in 2014 to deal with specific market conditions in areas of high demand and also in areas of high employment where people are likely to be in work and be able to afford to move into other tenures. Discretion lies with regional directors to apply as local conditions demand and documented in the local allocations strategy

Riverside are introducing a two year tenancy in response to the increased risk presented by welfare reform. This will be used for high risk groups e.g. under 35s (because of the Shared Accommodation Rate) and over 35s who will be under occupying. This group will also be prioritised for income maximisation and employment and training advice services provided by the Group. They are clear they want to continue to house the same customers but that the operating environment is getting more risky. They are also keen to ensure that the criteria used to grant non-lifetime tenancies are clear, transparent and applied consistently.



## GETTING THE PRACTICALITIES RIGHT

Riverside have implemented a combined tenancy that combines both introductory and fixed term tenancy in one agreement, rather than separate introductory and main tenancies – as many other providers have done.

Riverside's process for reviewing a five year fixed term tenancy begins one year before the tenancy ends. During this time two visits are made and two notices given about their intended course of action. The final notice is given six months before the tenancy ends. The tenancy review process looks at local housing market conditions e.g. the PRS and what other options are available to the tenant in the market. The presumption is generally for giving another fixed term tenancy. There is flexibility in the system to convert a fixed term tenancy to a standard tenancy where conditions have changed.

With the recently introduced two year fixed term tenancy, if circumstances are the same and there have been no tenancy breaches, then a new fixed term tenancy would be issued. These can be converted into assured tenancies where appropriate, for example if the risk factors are no longer relevant.

Due to the length of the fixed term tenancies granted to date Riverside do not yet have any direct experience of the administration of the review process and the resources required.

## LESSONS LEARNT

Riverside's own research indicates that younger people no longer expect a tenancy for life but they are monitoring to see what the effects of reduced security of tenure are on demand, turnover and the conduct of the tenancy. They are also monitoring the impact of the LHA cap and pensions changes to see what the effects of these are in the medium to long term.

Riverside expected resistance from local authorities in areas where they propose to use fixed term tenancies. However, they have found that most have been supportive of them using fixed term tenancies to achieve their objectives.

They would like to see straightforward rules for fixed term tenancies going forward.





## ST ALBANS COUNCIL

St Albans is a borough 20 miles north of London (20 per cent of the population commute to London). There are around 60 000 households in the Borough, 5000 council tenants and 1000 housing association tenants.

There is only one per cent unemployment in the area, mainly amongst the over 50s or in groups unable to work.

The LHA is well below the market rate and social rents are generally less than 50 per cent of the market rent. This makes social tenancies significantly more desirable than private sector tenancies.

## SETTING CLEAR OBJECTIVES FROM THE OUTSET

St Albans use fixed term tenancies primarily to manage underoccupancy. There is high demand for properties and there is an issue in St Albans with older people whose children have left home living in family properties and underoccupying.

Fixed term tenancies have been in use since 2014 with a default tenancy length of five years. There is also a two year tenancy option for those housed following an eviction and the option to give a two year tenancy following a five year term where there have been arrears, ASB or the property is marked for demolition/major works. Whilst St Albans has the ability to use fixed term tenancies where there are such issues fixed term tenancies are not primarily a tenancy management tool and possession orders or injunctions remain the primary method of dealing with this.

Lifetime tenancies have been maintained for sheltered housing and bungalows designated for older people.



## GETTING THE PRACTICALITIES RIGHT

St Albans have included a mid-term review in their process and around 100 are due this year. They have had to bring in additional administrative support to assist with the level of work this has created.

St Albans are also concerned about what happens where there are arrears and a new fixed term tenancy is granted following the current one. There is not clarity around what happens to the arrears and whether arrears agreements can be enforced in these circumstances - they understand that fixed term tenancies cannot be extended, only ended or renewed. This could cause problems at the review stage.

The housing management IT system used has no method of flagging when reviews are due - so a separate spreadsheet has been set up and has to be checked manually.

St Albans' review process begins nine months before the end of the tenancy in order to meet the six month notice requirement.

St Albans visit the tenant in their property to check condition, occupancy, arrears, ASB etc. There is also a check that the organisation has no plans for the property e.g. demolition. There is also an income check to ensure that the tenant's income is not above the levels stated in the policy - where this is the case the expectation is that the tenant uses the private rented sector or shared ownership options. Although St Albans is not able to compel tenants to disclose their income, non-cooperation can be grounds to end a tenancy. The presumption is that another tenancy will be granted where there is no reason not to.

## UNDERSTANDING THE IMPACT

St Albans do not expect to see the effects of using fixed term tenancies for about 10 years; this is a long-term strategy to make best use of the stock in the future. Those underoccupying are mainly older people and couples where children have moved out or families where both parents work - both will have secure tenancies at the moment. More people will be affected as tenants with fixed term tenancies move through the system.

## LESSONS LEARNT

St Albans are now questioning the wisdom of using fixed term tenancies. They have concerns about how they will deal with rent arrears where they grant a new fixed term tenancies and existing arrears become former tenant arrears. They have suggested that there should be a mechanism for extending a fixed term tenancy as well as the option to offer a new tenancy.

St Albans are also concerned what will happen where a new fixed term tenancy is not granted and households then present as homeless. They are unsure as to what the decision of the council will be regarding intentionality where an fixed term tenancy has not been reviewed.



## WANDSWORTH BOROUGH COUNCIL

Wandsworth is an inner London borough with a housing stock of 32 000. There are 16 500 tenants and the rest are leaseholders. The council share staff with the neighbouring borough, Richmond.

### SETTING CLEAR OBJECTIVES FROM THE OUTSET

In the majority of circumstances fixed term tenancies are granted on a five year basis following a one year introductory tenancy. The introduction of five year tenancies for general needs stock was to make better use of the council's housing stock to meet housing needs. At the end of tenancy review household circumstances can be reviewed including the size and income of the household and where appropriate another property could be offered or advice into low cost homeownership opportunities provided. Wandsworth use fixed term tenancies for all tenancies except sheltered accommodation.

Wandsworth also ran a "housing into work" pilot for 18-30 year olds where getting into work is linked to the tenancy - these are two year agreements. They have also occasionally used fixed term tenancies where there has been a history of ASB or rent arrears.

There is flexibility set out in the Tenancy Policy to offer two, three or four year tenancies where it helps the council make best use of its stock. There is flexibility to offer a new fixed term tenancy in these circumstances and to offer a tenancy at a different property.



## GETTING THE PRACTICALITIES RIGHT

The use of two year fixed term tenancies in exceptional circumstances means that the review process starts very quickly and this creates additional work for staff, although reviews are mainly a desk based exercise. Using fixed term tenancies has also meant more types of tenancy to manage and therefore greater complexity - the review process is currently being further developed to stream line the process.

They have only carried out five reviews to date - all of these for two year tenancies. Four of these were granted new tenancies and one gave up their tenancy voluntarily. Wandsworth report that with two year tenancies it is often those tenants who are most difficult to engage that have them and this can create problems when carrying out the review..

Wandsworth begin the review process 9 - 12 months before the end of the tenancy. The council reviews the tenant's financial circumstances, household circumstances and housing options with them. A decision will then be made whether to offer another fixed term tenancy or not and for what property(ies).

Wandsworth use the Greater London Authority's "First Steps" scheme as a benchmark for household income - where the tenants' household income is greater than the threshold set by the scheme another tenancy might not be offered.

## LESSONS LEARNT

Wandsworth recognised that the review process needed to be tested with changes incorporated as lessons were learned. They have found that there is an additional work burden on the staff but are confident that fixed term tenancies should enable them to make better use of their stock in the longer term particularly through addressing under occupation and overcrowding where it is occurring. A key focus is to reduce officer time spent on reviews.

Wandsworth have also found that where they have given fixed term tenancies to problematic tenants, this has not led to greater engagement with services from the tenant. They are currently working on how to manage this and enable tenants to remain in their existing homes.







## ORWELL HOUSING

Orwell is based in Suffolk, mainly around Ipswich but also areas of Essex, Cambridgeshire and Norfolk. They manage 3000 general needs and sheltered properties, and around 600 supported housing and extracare schemes.

Orwell began using fixed term tenancies as part of their affordable rent programme but now use them across all stock with the exception of sheltered housing.

## SET CLEAR OBJECTIVES FROM THE OUTSET

Orwell are using fixed term tenancies to make the best use of their stock. They use them as a tool to manage their properties in the most efficient way - to free up properties for people who need them. Where people have a large enough income they are expected to use the private rented sector or purchase a property.

Orwell never offer a tenancy shorter than 5 years at present although they have discussed the possibility of doing so in the future. For example they might offer a 2 year tenancy where they have concerns about a person's ability to manage their tenancy. They would want to offer a 6 year fixed term tenancy following this though - proportionality is an issue for Orwell.

Orwell are also concerned how we will manage former tenant arrears where we create a new fixed term tenancy and effectively make any existing arrears into former arrears.



## GETTING THE PRACTICALITIES RIGHT

Orwell carry out visits to tenants with fixed term tenancies at 3, 6 and 9 month in the first year. The remainder is conducted as for a normal assured tenancy. Fixed term tenants are contacted a year before the end of the tenancy to begin the review process. A visit is carried out to review the tenant's circumstances, any changes and whether to offer a new tenancy. They look at the use of the property e.g. occupancy, tenant circumstance and how the tenancy has been conducted.

Orwell were carrying out assessment visits at 12 months and then 6 months before the end of the tenancy; this has since been modified to 12 months and then 9 - in time to give 6 months notice if the tenancy is not to be renewed,

## ASSESSING THE IMPACT

Orwell are concerned that their review process will be time-consuming. They are currently working out how the review process might work and how to take enforcement action on fixed term tenancies.

In terms of resourcing the review process, Orwell have appointed a housing management trainee (HMT) to manage the review process as part of their wider role. They have allocated 2 days per week for them to do this. The HMT will manage the process and do new sign ups. They are also using this as a training tool; they will be able to see all the stock, identify problematic tenancies etc.

## LESSONS LEARNT

Orwell highlighted the difficulties of managing the impact of administering the system. They started off using a 1 year introductory followed by a 5 year fixed term tenancy but had problems administering this so introduced a 6 year fixed term tenancy with a one year probationary period. Administering the system this way means that there is no need to issue a new agreement at the end of the initial period and no former tenant arrears at this point. Orwell changed this process within 12 months of starting to issue fixed term tenancies as there were concerns over the administrative burden it placed on the organisation.

They are still assessing the impact of having different processes for managing different tenancy types. For example there are different arrears procedures for fixed term tenancies and the housing management system only has a single policy built in. This creates a margin for error that needs to be ironed out.

