

Housing Strategy 2009
healthy homes, healthy lives, healthy city

Brighton & Hove Tenancy Strategy 2013



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Tenancy Strategy 1st Edition
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Copies of our housing strategies are available from:

Housing Strategy Team
Brighton & Hove City Council
4th Floor Bartholomew House
Bartholomew Square, Brighton BN1 1JE

t : +44 (0)1273 293055
e: housing.strategy@brighton-hove.gov.uk
w: brighton-hove.gov.uk/housingstrategy

Acknowledgements

We would like to thank all those who took the time to share their views, opinions and stories with us. These conversations have helped shape our own understanding of the needs of local residents and ultimately set the direction and priorities of our strategy

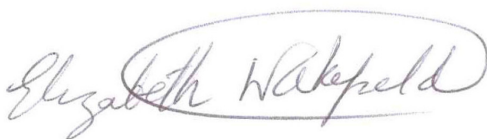
Foreword by Councillor Liz Wakefield Chair of Housing Committee

I would like to welcome you to the city's first Tenancy Strategy. The Strategy is important as it determines the types of tenancies that will be offered to those who may find themselves in need of social housing in the future.

There has been national debate on housing and in particular whether social housing tenancies should continue to be for life providing security and stability or for a fixed term which may help a household overcome a shorter term crisis. As part of this debate, the Localism Act 2011 introduced a requirement for local authorities to produce a Tenancy Strategy setting out the matters that social housing providers must take into account when they grant new social tenancies.

We have also taken the opportunity through this Tenancy Strategy to outline our position on the use of new Affordable Rent tenancies introduced by the Government. We believe that these rents are too high for the majority of residents and the Strategy outlines our desire to cap these rents to make sure that they remain truly affordable to local people whilst at the same time ensuring that new housing development remains viable.

Ultimately we recognise that the popularity of the city and the shortage of land for new development means that the supply of affordable housing in the city will never meet the high level of demand. It is important that the Council and our Registered Provider partners make best use of our scarce resources so we can effectively support those most in need and also lend a helping hand to others who find themselves in a crisis.



Councillor Liz Wakefield
Chair of Housing Committee

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Executive Summary

The Localism Act 2011 requires Councils to develop a Tenancy Strategy setting out a framework for providers of social housing (housing associations and councils) informing them of what the local authority expects them to have “regard to” when developing their own tenancy policies.

Our Strategy covers two key policy areas:

- **Policy 1: Tenure** – our expectations on the types of tenancies that social housing providers should be granting and how they should be managed
- **Policy 2: Affordable Rent** – how we expect rents to be kept affordable by those developing new social housing

It is important to state that there would be no change for existing tenants who will continue to enjoy lifetime tenancies.

Legally we were only required to consult Registered Providers. However, as those on the housing waiting list will be the first to be affected by this strategy, we expanded our consultation to include those on the Housing Register via the Homemove website.

This Tenancy Strategy will help us make best use of the city’s social housing stock at a time where low incomes and high housing costs are making life a challenge for many of the city’s residents.

- *Summary of Policy 1: Tenure*
Under the Localism Act 2011, Local Authorities and Registered Providers now have the freedom to decide whether to give fixed (registered provider) or flexible (local authority) term tenancies or continue to give lifetime tenancies to new tenants. Fixed or flexible tenancies must be for a period of at least five years (or two years in exceptional circumstances).

Since the Council's housing stock is often concentrated in deprived areas we have a need to promote stable communities where residents can develop a stake in their neighbourhood to help these places thrive. In view of this we believe that as a general rule flexible tenancies are not appropriate for the council's housing stock at this time and we believe we should continue to use lifetime tenancies.

As registered provider housing stock is more diverse and integrated within existing and more often less deprived communities we believe registered providers are best placed to decide whether fixed or lifetime tenancies are more appropriate for their housing stock in any particular area.

Through the policies of this strategy we have introduced a set of principles and safeguards to ensure that decisions on the types of tenancies granted are fair, transparent, communicated effectively and reflect the needs of the particular household.

- *Summary of Policy 2: Affordable Rent*

To help fund the development of new affordable housing using less grant than previously, the Government has introduced Affordable Rents where those homes developed with Government funding (and some existing homes when vacant) are let at a rent up to 80% of market rent. The extra rent enables the housing provider to borrow more money to pay for building the home.

The decision on Affordable Rent tenancies is a matter between the developing landlord and the Homes & Communities Agency however we want to be involved in these discussions to make sure that these rents remain truly affordable.

Our modelling suggests that for homes with more than 1 bedroom, 80% of market rent would be above the Housing Benefit allowance. We would like to see these Affordable Rents in the city capped at the Local Housing Allowance limit to keep them affordable.

1. Introduction

1.1 The Localism Act 2011

The Localism Act 2011 has shifted the balance of power and decision making away from central government to neighbourhoods, communities, local institutions and councils to help it better reflect the needs and wishes of local communities.

Four “freedoms” are being introduced through the Act to the way social housing is managed and the way Local Authorities can discharge their homelessness duties through the private sector, all of which will lead to major changes in social housing tenure in the country:

1. Giving local authorities greater freedom to set priorities and criteria for social housing waiting lists
2. Reforming tenure on social housing so that a tenancy is based on need so may not be for life
3. The flexibility for local authorities to meet their homelessness duty by offering private rented accommodation to homeless people
4. Reform of housing finance to enable new social housing

The Localism Act makes it a statutory duty for each local authority to produce and publish a strategic Tenancy Strategy that will guide providers of social housing in development of their Tenancy Policies.

1.2 What is a Tenancy Strategy?

A Tenancy Strategy must set out a framework for providers of social housing (housing associations and councils) informing them of what local authority’s expects them to give “regard to” when developing their respective tenancy policies in the following areas:

- The type of tenancies they will grant (fixed term or lifetime)
- The circumstances under which they may grant one type of tenancy and not the other

- The length of fixed term tenancies and when they may either be extended or terminated

Affordable Rents

The Brighton & Hove Tenancy Strategy also considers Affordable Rents. To help fund the development of new affordable housing using less public subsidy than previously the Government has introduced Affordable Rents where those homes developed with Government funding (and some existing homes when vacant) are let at a rent up to 80% of market rent. The extra rent enables the housing provider to borrow more money to pay for building the home in place of the higher grant. The Homes Communities Agency has advised that Providers have flexibility on the type of tenancy to be offered for Affordable Rent, which includes the option to offer lifetime tenancies.

Consultation

Legally the strategy must be produced in consultation with registered providers (housing associations) however as the strategy has a direct impact on those applying for social housing we have also promoted the consultation through the Homemove website to those on the Housing Register.

The council must also ensure that their strategies are consistent with local housing allocation policies and homelessness strategies.

1.4 Role of Registered Providers

Registered Providers are now required to publish Tenancy Policies that detail the types of tenancies they offer and how they will be managed.

In developing tenancy policies, registered providers should have regard to the local authorities Tenancy Strategy and work with local authority partners, applicants, tenants and other relevant partners to develop a policy that reflects local needs, stock profile and the strategic expectations of the partner local authorities.

2. Housing Stock

2.1 Population

Brighton & Hove has a diverse population with 273,369¹ residents. Population growth has focussed on those under 60. There are now comparatively large numbers of young people aged 20 to 39 years with relatively fewer young children and older people living in the city.

Growth since 1991 has comprised entirely of single person households. Projections between 2008 and 2033 suggesting that there will be an additional 22,840 households in the city (914 per annum) with 83% of this being new single person households. In addition, 11% of household growth will be in those aged 85+.

2.2 Housing Stock in Brighton & Hove

The Census 2011 identified 124,417 homes in the city, 121,540 of which were occupied:

Brighton & Hove Housing Stock			
Tenure	Homes	Houses	Flats
Owner occupied	65,835 (54%)	70%	30%
Private rented	34,081 (28%)	21%	79%
Social housing	18,187 (15%)	37%	63%
Other	3,437 (3%)	x	x

Source: BHCC Private Sector Stock Survey 2008 & Census 2011

We have a much smaller owner occupied sector but much larger private rented sector compared to the England average. We have slightly more local authority housing than the England average but we have a smaller registered provider sector. Overall we have a smaller proportion of social housing than the England average.

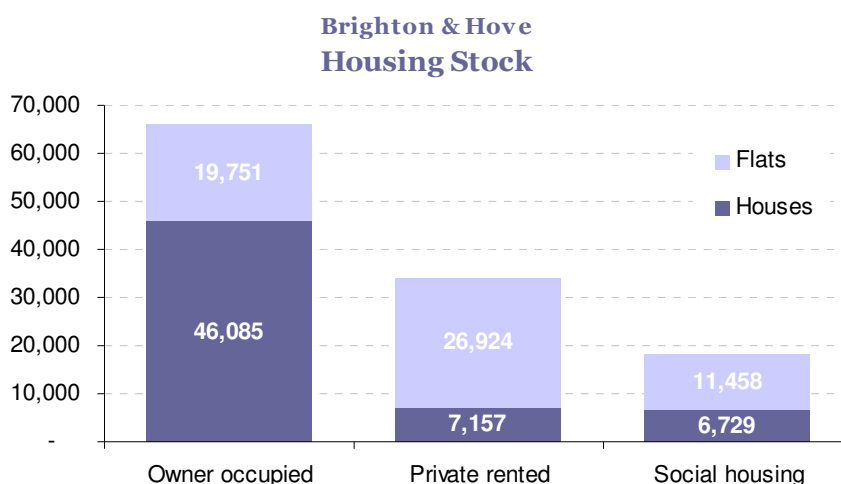
¹ Census 2011

Within the social housing sector the homes are a combination of general needs housing and homes suitable for those with a support need^{2,3,4}:

- 16,112 general needs housing
- 1,816 older peoples housing
- 1,081 supported housing

As homelessness in the city amongst those with physical disabilities and mental health needs is higher than the national average we must take particular care to make best use of the housing suitable for those with specific needs.

The owner occupied sector has just over half the city's homes (54%) but has 87% of the city's houses with private renting and social housing being predominantly flats.



Source: BHCC Private Sector Stock Survey 2008 & Census 2011

Those who rent and are in need of family sized housing can face difficulty in accessing a suitable home. As a result this increases homelessness pressures and places additional demands on the small supply of family sized social housing. These challenges again mean that we have to ensure that family sized social housing is prioritised for those most in need.

² Regulatory & Statistical Return (RSR) 2011

³ HIP (HSSA) 2011

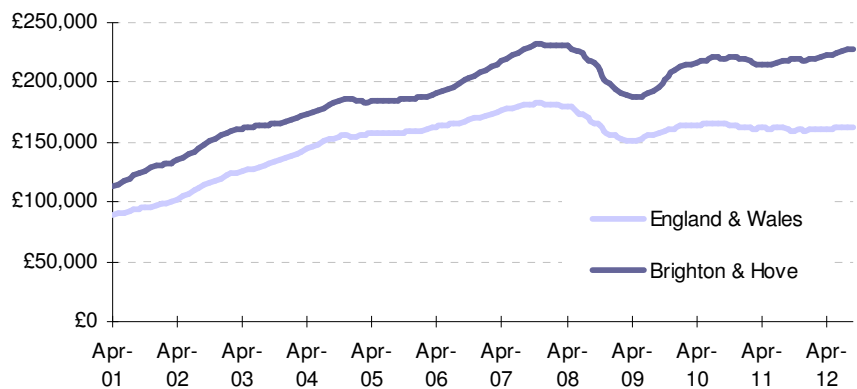
⁴ Brighton & Hove City Council Website

3. Housing Costs

3.1 Owner occupation

The cost of buying a home in the city is out of the reach of many with the average cost recorded in September 2012 as £227,267 compared to a national average of £162,561. Local prices are now only 2% below the high seen in November 2007.

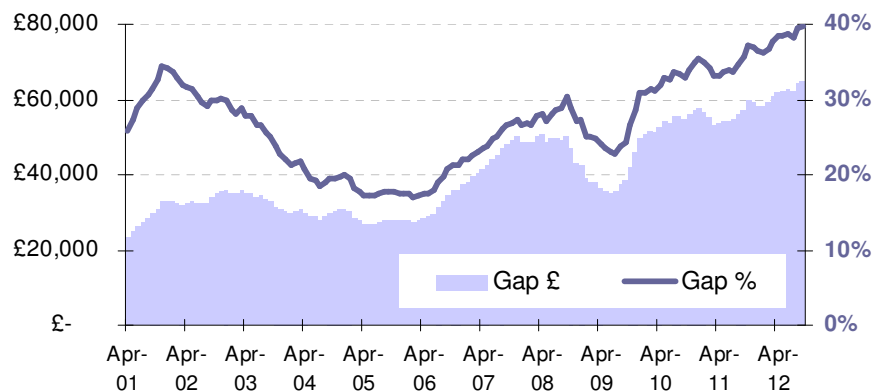
Average Property Prices
(to end September 2012)



Source: HM Land Registry

Local prices are consistently moving further away from the national average and are now 40% (£64,706) higher compared to February 2006 when they were only 17% (£27,282) higher.⁵

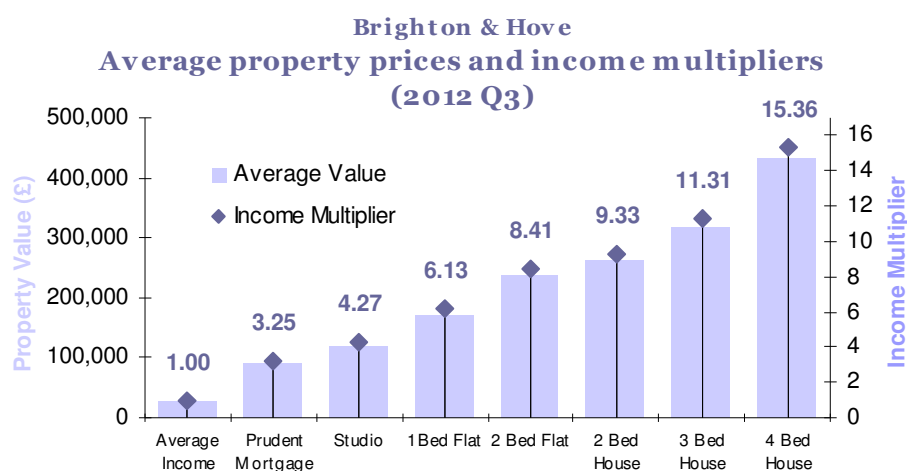
Average Property Price Gap
(Brighton & Hove above England & Wales)



Source: HM Land Registry

⁵ Land Registry data (to September 2012)

An analysis of properties by size advertised for sale on the Rightmove website supports the findings from the Land Registry with even the average cost of a studio flat being more than 4 times the average household income.



Brighton & Hove Median Household Income: £28,240 (BHCC Affordable Housing Needs Report 2012)

3.2 Private Rented Sector

Although there is a large private rented sector market in the city many of the homes are not affordable to households on average incomes without some form of subsidy. The Brighton & Hove City Council Assessment of Affordable Housing Need Report 2012 showed that half of households in the city earn less than £28,240 per annum.

Private Sector Rent Levels and Mortgage Comparison					
Property	2012 Q3		Rent Compared to Mortgage *		
	Average rent per month	Equivalent Mortgage	Annual income required	Rent as a % of purchase cost	
Studio	£ 578	£ 98,902	£ 30,431	82.0%	
1 Bed Flat	£ 784	£134,063	£ 41,250	77.5%	
2 Bed Flat	£ 1,187	£203,044	£ 62,475	85.5%	
2 Bed House	£ 1,156	£197,750	£ 60,846	75.0%	
3 Bed House	£ 1,491	£254,989	£ 78,458	79.8%	

* Assuming a mortgage at 3.25 times income over 25 years with 5% interest

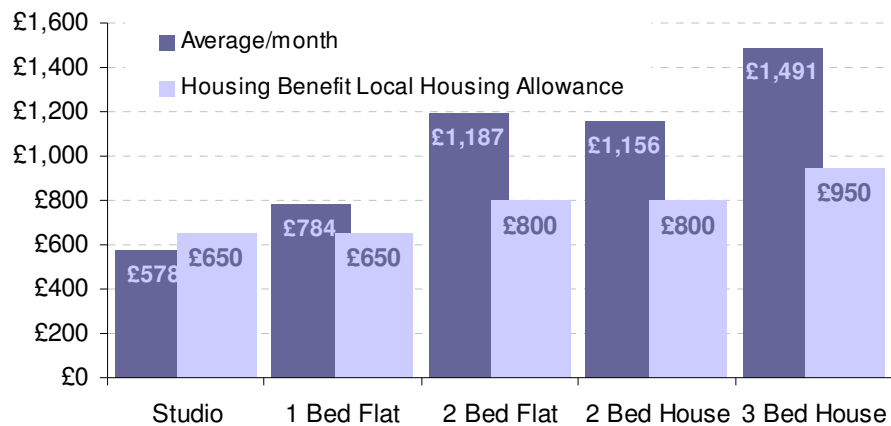
The rent on a 1 bedroom flat is equivalent to the repayments on a mortgage of around £134,000 requiring an income of £41,000 to be affordable and the rent on a 3 bedroom house is equivalent to the repayments on a £255,000 mortgage requiring an income of £78,500 to be affordable.

Local Housing Allowance (Housing Benefit)

Many households in receipt of housing benefit find it difficult to find an affordable property to rent as in many cases the cost of renting is more than the local housing allowance limit. Some landlords are reluctant to rent to households in receipt of housing benefit which can reduce people’s choice even more.

When looking at the average rent level of properties in the third quarter of 2012 the Local Housing Allowance was less than the rent for all property types except studio flats which receive the 1 bedroom rate.

**Brighton & Hove
Monthly Average Private Sector Rents
& Local Housing Allowance Limits (2012 Q3)**



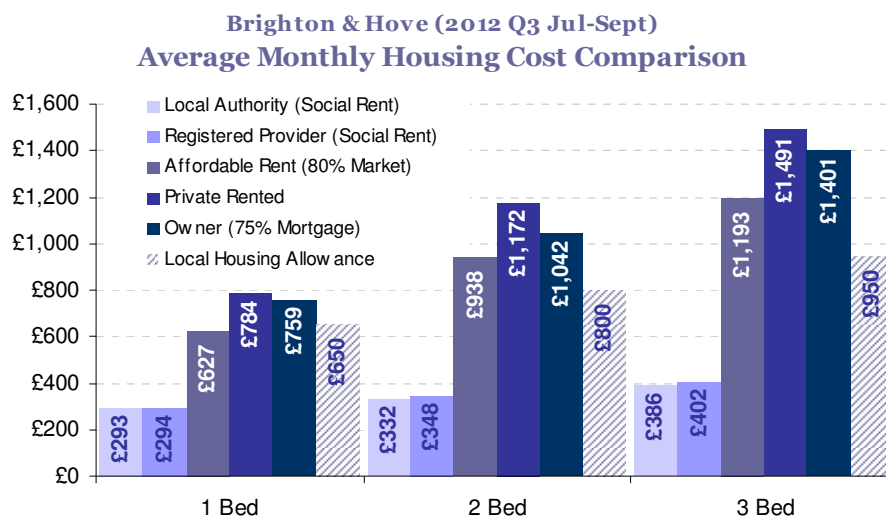
The shortfall between the housing benefit rate and rent makes it particularly difficult for those with children. In September 2012 our monitoring of the Rightmove website showed that in Brighton & Hove there was 18 family homes available to rent within housing benefit limits but only 1 of these was a 3-bed home (8x 2-bed, 1x 3-bed, 9x 4-bed).

To obtain an affordable home families with children on benefits may need to consider leaving the city to less expensive areas such as the coast in the Worthing / Lancing and Peacehaven / Newhaven areas where more properties are available to rent within benefit limits.

3.3 Comparison with social housing rents

The Council's Assessment of Affordable Housing Need Report 2012 identified that the minimum household income required to afford market housing is £42,000 per annum against an average (median) household income of £28,240 per annum.

Almost 87,945 households (72%) can not afford market housing without spending a disproportionate level of their income on housing costs or some form of subsidy suggesting that social housing is the only affordable housing option in the city for the vast majority of residents.



Notes: The average rent for Registered Providers is based on 2011 figures and for the Local Authority is based on 2012/13 figures. Average cost to buy based on a 25% deposit, 25 year mortgage at 5% interest

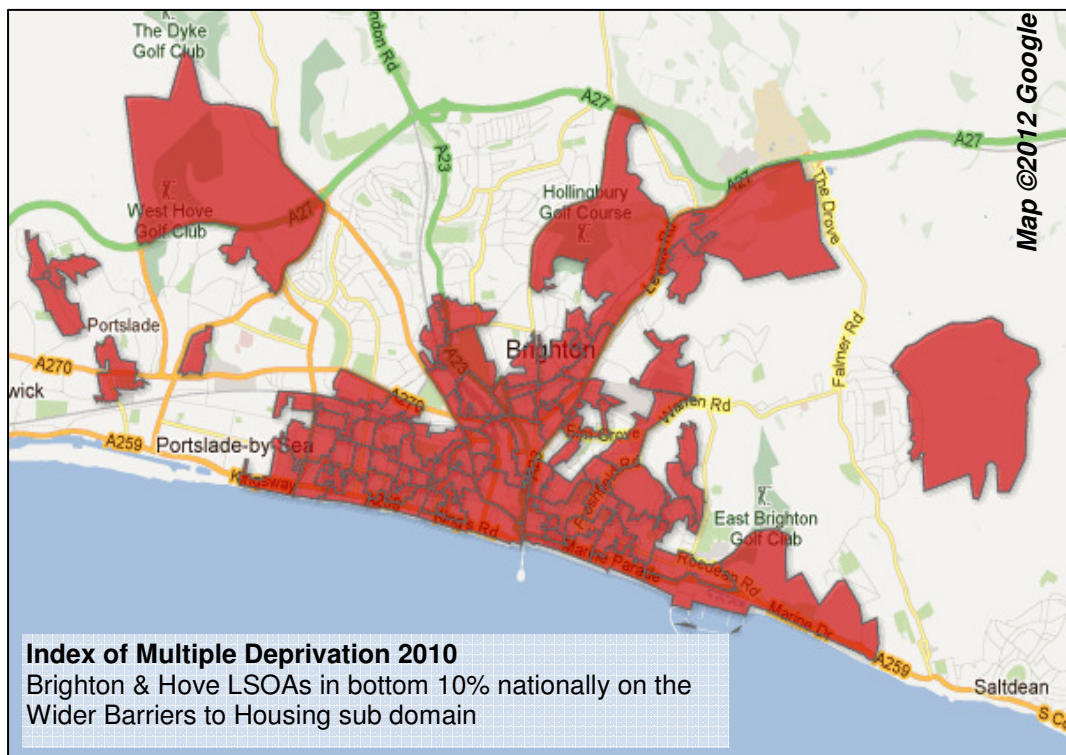
The city's high housing costs are causing more and more households to approach the council in housing need. With a relatively small social housing stock it is essential that we make best use of it.

4. Affordable Housing Demand & Supply

4.1 Housing Deprivation

The Index of Multiple Deprivation 2010 (IMD2010) wider barriers to housing sub-domain measures affordability, overcrowding and homelessness. Almost half (49%) of the city's Lower Super Output Areas⁶ are in the bottom 10% nationally with the whole city in the bottom 41%.

This has been supported by the Census 2011 which showed that Brighton & Hove has the 36th highest proportion of overcrowded households in England & Wales (having 1 less bedroom than required) affecting 8,168 households (6.7%).



4.2 Demand for Affordable Housing

The Council’s Assessment of Affordable Housing Need Report 2012⁷ has identified that 87,945 households in Brighton & Hove (72%) can not afford market housing without spending a disproportionate level of their income on housing costs or some form of subsidy.

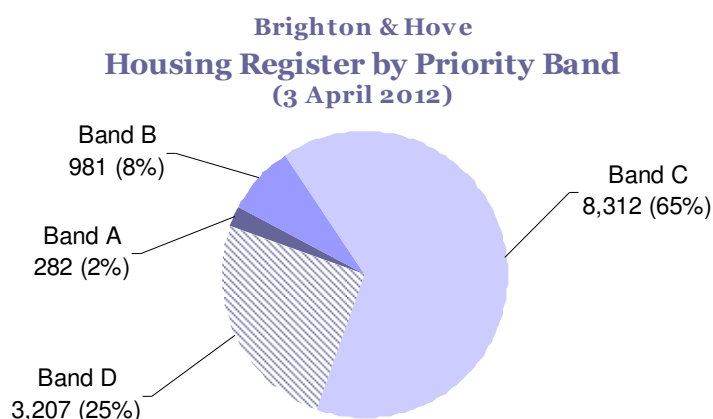
The survey has identified demand for 17,403 new affordable homes in the period 2012-2017 above that which already has planning permission – equivalent to the city’s existing social housing stock. 3,481 new affordable homes above existing plans are required every year.

In addition, 59% of those in need (10,642 households) are only able to afford social rented housing rather than affordable rented.

4.3 Housing Register

On 3 April 2012 there were a total of 12,782 households on the Brighton & Hove City Council joint housing register (this has now increased to more than 15,000 households):

- Band A (urgent need to move) - 282 households
- Band B (high priority to move) - 981 households
- Band C (moderate level of housing need) - 8,312 households
- Band D (little or no housing need) - 3,207 households



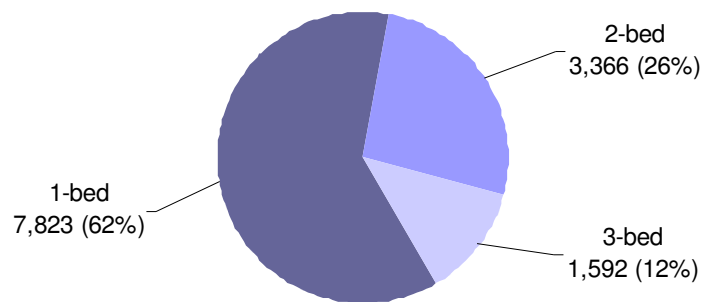
⁶ Lower Super Output Areas. Brighton & Hove has 164. There are 32,483 LSOAs in England. Each LSOA in Brighton & Hove represents an average of 760 homes / 1,500 people / 700 households

⁷ http://www.brighton-hove.gov.uk/downloads/bhcc/ldf/Assessment_of_Affordable_Housing_Need.pdf

Of those households on the Register:

- 7,823 (62%) of all households required a 1-bedroom home
- 3,366 (26%) required a 2-bedroom home
- 1,592 (12%) needed a 3-bedroom home or larger

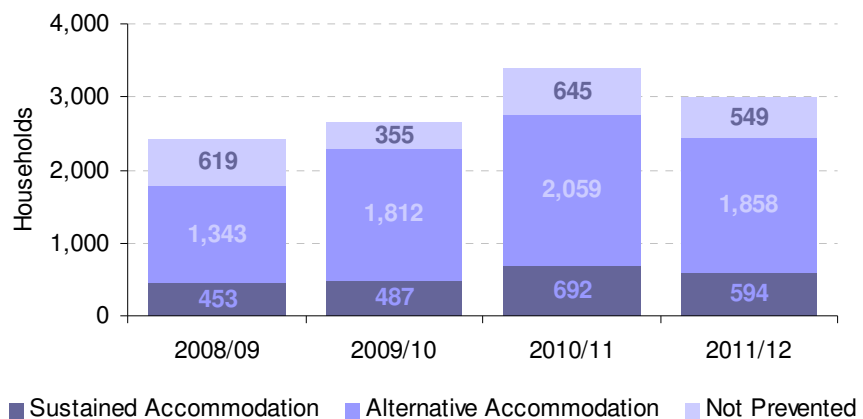
**Brighton & Hove
Housing Register by Property Size Required
(3 April 2012)**



4.2 Homeless Prevention

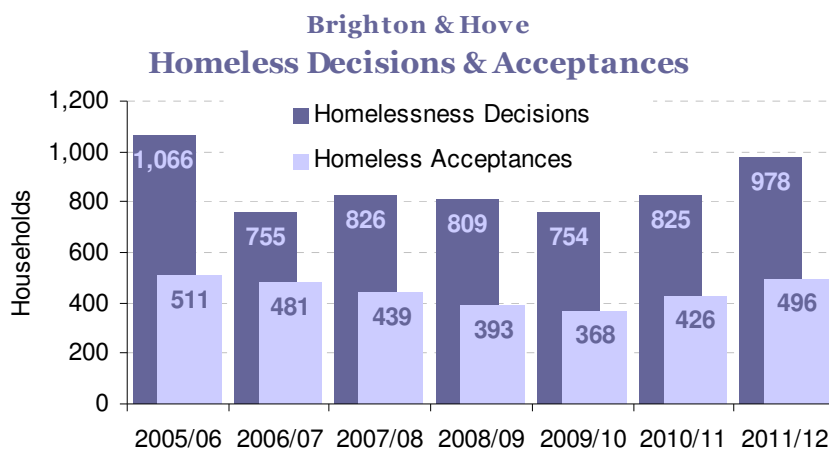
Prevention has been a fundamental part of the Council's approach to dealing with the issue of homelessness. In addition to the 2,000+ households who have their homelessness prevented each year through detailed casework many thousands contact the council and other agencies every year for housing advice.

**Brighton & Hove City Council
Homeless Prevention Casework**



4.3 Homelessness

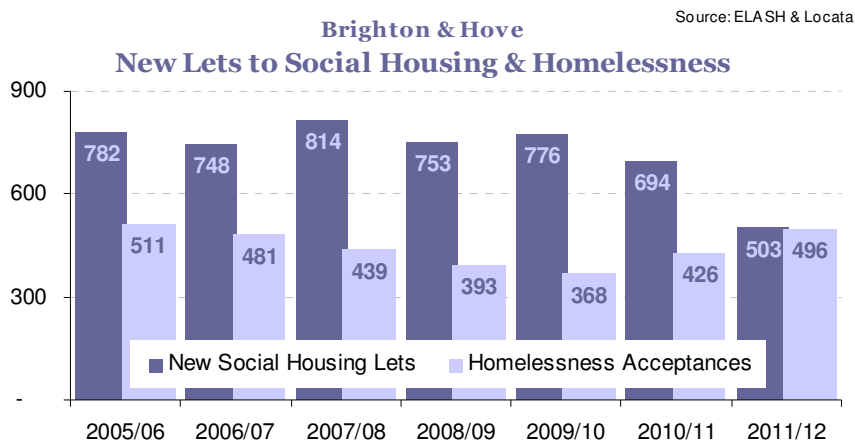
Unfortunately we are not able to prevent homelessness in all cases. Our prevention approach introduced at the beginning of 2005 saw homelessness reduce year on year, however, since the economic crisis the figures for those households we have accepted a statutory duty towards have been increasing by around 15% per annum with 496 households becoming homeless in 2011/12.



Source: PIE

4.4 Availability of social housing

The last year saw a marked decrease in social housing turnover and housing development at the same time as the demand increased (more households became homeless and more households are on the Housing Register).



Source: ELASH & Locata

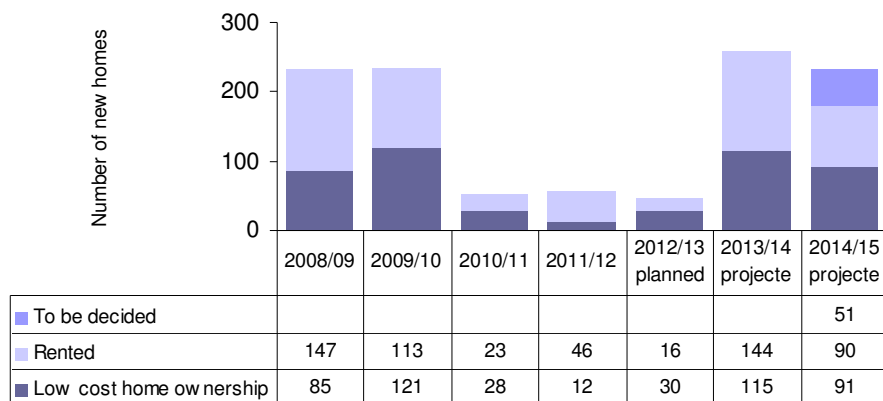
4.5 Development of new affordable housing

The recession had a noticeable impact on our programme however the signs for the next few years are looking very positive with more than 500 new affordable homes projected to complete and land identified that could deliver more than 1,000 new affordable homes over the next 5 years (subject to funding).

Source: HSSA submission & Housing Development Manager

Brighton & Hove

New Affordable Housing Development (Rent & Low Cost Home Ownership)



4.6 Affordable housing requirements

The new draft City Plan has lowered the threshold that requires an affordable housing contribution to developments of 5 or more dwellings in recognition of the city’s high level of need:

- 40% onsite affordable housing on sites of 15 or more dwellings
- 30% onsite affordable housing or equivalent financial contribution on sites between 10 and 14 dwellings
- 20% affordable housing as equivalent financial contribution on sites between 5 and 9 dwellings

On developments of 10 or more dwellings, affordable housing will normally be delivered on site. Only in exceptional circumstances will the Council accept a commuted sum or free serviced land in lieu of on site provision.

Affordable housing provision should incorporate a mix of tenures and seeks an affordable housing dwelling size mix of 30% one bedroom, 45% two bedroom and 25% 3+ bedroom.

5. Social Housing Tenancies

5.1 Localism Act changes

Changes under the new Localism Act 2011 enable local authorities and registered providers to offer fixed/flexible term tenancies to new tenants of new affordable housing.

The fixed/flexible term will usually be of a 5 years or more duration and will be in addition to the tenancies already in existence.

5.2 Local Authority Tenancies

Introductory Tenancy (existing)

An introductory tenancy provides trial period of 12 month trial at the beginning of new tenancy during which the tenants should demonstrate that they are responsible tenants. Tenants have fewer rights and more restrictions, and can be more easily evicted

Secure Tenancy (existing)

A secure tenancy is a lifetime tenancy which means the tenant can keep their home for as long as they choose providing they keep to the conditions set out in the tenancy agreement. The local authority can only evict a tenant if they have grounds to do so. For example rent arrears, antisocial behaviour

Demoted Tenancy (existing)

A demoted tenancy is one that the Council has taken a tenant through the Courts as a result of Anti-Social behaviour and demoted the Secure tenancy to one similar to an introductory tenancy with lesser rights. A demoted tenancy may regain its Secure status after 12 months if the behaviour is no longer a problem

Flexible Tenancy (new)

A flexible tenancy is a tenancy with at least a 5 year term (2 in exceptional circumstances). The tenant has less rights and although the local authority does need a ground for eviction in theory the process is easier

5.3 Registered Provider Tenancies

Starter Tenancy (existing)

A starter tenancy provides a 12 month trial period at the beginning of a new tenancy. It means that the tenant has fewer rights and so can be evicted more easily as no statutory grounds for eviction is required. It only applies to new tenants and not to existing tenants transferring or doing a mutual exchange

Demoted Tenancy (existing)

A demoted tenancy is one that a registered provider has taken a tenant through the Courts as a result of Anti-Social behaviour and demoted the tenancy to one similar to an starter tenancy with lesser rights. A demoted tenancy may regain its status after 12 months if the behaviour is no longer a problem. Secure tenancies that are demoted only regain assured tenancy status

Assured Tenancy (existing)

An assured tenancy is a lifetime tenancy and gives the tenant the right to live in the home for as long as they want on condition that they do not break the tenancy agreement. A housing provider must have a legal reason and get a court order to evict a tenant - for example rent arrears, antisocial behaviour

Fixed Term Assured Shorthold Tenancy (new)

A fixed term tenancy is a tenancy with at least a 5 year term (2 in exceptional circumstances). The tenant has less rights and although the registered provider does need a ground for eviction in theory the process is easier

5.4 Tenancies and Affordable Rents

Providers have flexibility on the type of tenancy to be offered for Affordable Rent, which includes the option to offer lifetime tenancies⁸.

⁸ Affordable Homes Programme 2011-2015 - Framework, Para 3.14, Page 17, Homes & Communities Agency: <http://www.homesandcommunities.co.uk/sites/default/files/our-work/affordable-homes-framework.pdf>

6. The Tenancy Strategy in Context

6.1 Housing Strategy 2009

Our Tenancy Strategy supports the strategic priorities of our housing strategy:

- improving housing supply
- improving housing quality
- improving housing support

Improving housing supply

The Localism Act introduces the Affordable Rent model which helps to generate additional funding for the development of new affordable housing by charging up to 80% market rents on these new homes and an agreed number of old homes that are ready to for re-let. This will help social housing providers build more new homes and improve the city's housing supply. Within the new Affordable Rent regime we are committed to ensuring rents remain affordable.

Improving housing quality

Affordable rent homes will increase the supply of high quality homes that offer an alternative to private rented sector housing.

Improving housing support

The Localism Act 2011 makes it obligatory for social housing providers offer support, advice and assistance to households on fixed/flexible tenancies whose tenancies will not be renewed to find alternative accommodation.

6.2 Homelessness Strategy 2008-13

As a council our strategic vision as set out in our Homelessness Strategy 2008-2013 is to prevent homelessness through early intervention, and timely provision of advice and support.

Where homelessness becomes unavoidable, we will ensure that people receive appropriate housing and support, with a clear pathway towards independent living.

The strategic Tenancy Strategy will set out a framework of guidelines to ensure that where fixed/flexible tenancies are not being renewed that the household is supported with exploring their housing options in good time to make sure that they do not end up homeless.

A revised Homelessness Strategy is being developed in 2013.

6.3 Linking to the Allocations Policy

Brighton and Hove City Council currently operates a choice based letting scheme. We expect all Affordable Rent and fixed/flexible tenancies to be advertised through our Homemove choice based lettings system. We also expect that all new tenancies will be allocated in accordance with the priorities in our adopted Allocation Policy.

6.4 Ongoing Review

The Tenancy Strategy and all other connected strategies are subject to regular review to ensure they adapt to the changing economical, social and political landscape and make a real difference to the lives of local people.

7. Consultation Findings

7.1 Background

In developing the Tenancy Strategy 2013, it was important for us to seek the views of Professionals, Residents and Other interested parties.

Legally we were only obliged to consult Registered Providers but we expanded our consultation to local Councillors and those on the Housing Register (via the Homemove website) as these residents are the most likely to be affected by the changes. Consultation on the draft strategy was managed through the Council's Consultation Portal.

7.2 Responses

We received 12 consultation responses, 10 submitted via the consultation portal and 2 submitted via email. 7 responses were from Registered Provider Staff, 1 from Brighton & Hove City Council Staff and 4 from Residents.

Whilst the response was low there was a clear division of opinions between the Professionals and Residents. Providers generally supported the policies but Residents did not support Tenure Reform but were more in agreement with our proposed Affordable Rent policies.

Provider Concerns

The main concerns from providers focussed on those items which may conflict with their existing policies. This is particularly relevant for national providers working in a number of local authority areas as we appreciate it would not be practical for the provider to have different policies for different areas unless a specific need has been identified. Whilst we are no longer suggesting that Providers develop joint policies across the City we do expect their policies to be in keeping with the aims of this Strategy.

Providers were also concerned about the definition of affordability when or if Universal Credit is introduced as this would lower rent levels below the current Local Housing Allowance rate which in turn poses a risk to Provider credit ratings and impacts on the viability of new housing development.

We still insist that rents must remain affordable and as long as we have an identified LHA rate then this will continue to be the rent ceiling for Affordable Rented housing in Brighton & Hove (which is a permitted option in the HCA Affordable Homes Programme⁹ 2011-2015). Should Universal Credit see LHA rates removed or no longer identified within a single Universal Credit payment then we will review our affordability criteria at that point.

There was also a difference of opinion on whether Affordable Rent tenancies should be for a fixed term or could be lifetime tenancies. We have clarified the guidance from the Homes & Communities Agency which makes it clear that providers can offer either tenancy¹⁰. In view of this and to support tenant mobility and best use of the housing stock, we have kept the clause which expects tenants transferring to be offered a tenancy on similar terms to their existing one if they move into an affordable rented home.

Resident Concerns

Residents were clear that they preferred lifetime tenancies as they felt the reduced security from a fixed/flexible tenancy would discourage residents from developing a stake in their home and the local community.

⁹ AHP 2011-2015, Para 3.11, Page 17: “For example, providers may wish to charge a lower rent where a rent at 80% of market rent would exceed or be close to the relevant Local Housing Allowance (LHA) cap”, <http://www.homesandcommunities.co.uk/sites/default/files/our-work/affordable-homes-framework.pdf>

¹⁰ AHP 2011-2015, Para 3.14, Page 17: “Providers will have flexibility on the type of tenancy to be offered for Affordable Rent, and they will retain the option to offer lifetime tenancies should they wish to do so. Government has stated that it expects providers to use this additional flexibility to ensure that help and support are focused on those who need it most when they need it most, and to build strong and cohesive communities.”

As an authority we do not have the power to insist that lifetime tenancies are used by Registered Providers however we will continue to offer lifetime tenancies in our own housing stock. We also recognise that fixed/flexible tenancies can be appropriate in some circumstances. We hope that the policies outlined in this strategy will encourage the use of lifetime tenancies by Registered Providers where appropriate and provide the right level of safeguards to maximise the security and stability for those households with fixed term tenancies.

Residents also raised concerns about succession policies on sole tenancies, particularly in relation to partners and carers who they may like to succeed to a tenancy in their event of their death. Whilst a spouse or civil partner has a legal right to succeed a carer does not. We encourage providers to have policies on discretionary succession to support those in need however we would not support succession that leads to a property being under occupied or underutilised and would expect the provider to work with the resident to identify alternative suitable housing.

Other Concerns

During the consultation we became aware that some providers are seeking to charge rent in advance, deposits and other fees for Affordable Rent tenancies. As these homes are social housing and primarily aimed at those in need we do not agree with this practice. Providers must not charge rent and deposits in advance or fees to new tenants for items such as referencing, lettings or administration etc when letting social housing tenancies including Affordable Rent tenancies. A new policy has been included to make this clear.

Thank you

We would like to thank the housing providers and residents that took the time to respond to this consultation. The results of this consultation have led to a number of changes to our policies to clarify and improve them and also address some of the concerns raised.

8. Policy 1: Tenure

8.1 Background

Local Authorities and Registered Providers now have the freedom to decide whether to give fixed (registered provider) or flexible (local authority) term tenancies or continue to give lifetime tenancies to new tenants.

Fixed or flexible tenancies must be for a period of at least five years (or two years in exceptional circumstances).

Impact on existing tenants

It is important to state that there would be no change for existing tenants who will continue to enjoy lifetime tenancies.

Tenants on fixed/flexible tenancies would continue to enjoy the following rights:

- Right to buy (or Acquire)
- Repairs
- Tenant involvement and consultation
- Exchange
- Subletting a part of their property
- Take on lodgers
- Inheritance/succession by their partners or spouse

There would be no changes to the way the tenancy can be terminated except that at the end of a fixed term tenancy. When the tenancy comes to an end, local authorities and/or registered providers can decide to either extend the tenancy or give advice and assistance to the tenant to move into the private sector depending on an assessment of the need and suitability of the tenant.

8.2 Our approach

The Council is aware that one main factor in people wanting social rented accommodation is the stability that it provides for the household and also the local community, particularly in relation to the welfare of children and other vulnerable groups.

Fixed or flexible term tenancies only provide security for a defined period and could be counter productive for a households' pathway to independence if they feel their home is at risk. However, fixed/flexible tenancies could offer a household a breathing space to enable them to address a short term crisis in their life as a stepping stone back into independence.

We recognise that the city's housing pressures mean a one size fits all approach is not able to adapt to local circumstances. We have a relatively small housing stock and it is essential that we are able to make best use of this resource so that we help those in need when support is required.

Policy 1a: The kinds of tenancies to grant

Since the Council's housing stock is often concentrated in deprived areas we have a need to promote stable communities where residents can develop a stake in their neighbourhood to help these places become desirable areas to live. In view of this we believe that as a general rule flexible tenancies are not appropriate for the council's housing stock at this time and we believe we should continue to use lifetime tenancies.

As registered provider housing stock is more diverse and integrated within existing and more often less deprived communities we believe registered providers are best placed to decide whether fixed or lifetime tenancies are more appropriate for their housing stock in any particular area. However, this decision must be made with due regard to this strategy, the city's housing needs, the needs of the community and the aims of the provider. It must also be clearly explained and accessible in the providers Tenancy Policy.

Providers also have flexibility on the type of tenancy to be offered for Affordable Rent, which does include the option to offer lifetime tenancies¹¹.

We expect the Council and Registered Providers to continue to issue new tenants with a Starter/Introductory tenancy for the first year. However, as part of the property advertising and lettings process it must be made clear to the tenant which tenancy this would become following a satisfactory probationary period – whether a lifetime or fixed/flexible tenancy.

Policy 1b: The circumstances in which the Landlord will grant a tenancy of a particular kind

Landlords must set out clearly in their Tenancy Policies the circumstances under which they make tenancy decisions. As a minimum we expect tenants to be provided with the most secure form of tenancy appropriate to their circumstances.

As a result of the Localism Act it will be possible for a household to be offered different tenancies under different terms by different landlords. To avoid confusion, it is important for landlord Tenancy Policies to be consistent with the Tenancy Strategy and where possible to be consistent with each other's Tenancy Policies.

There are a number of situations where we believe Registered Providers should be offering a lifetime tenancy, for example:

- Tenants in sheltered or extra care housing as the level of need is not likely to change
- Those with a Learning Disability where a lack of a lifetime tenancy could prevent independent living
- Those who are undergoing or have undergone treatment for a mental health condition where a lack of a lifetime tenancy could be detrimental to their treatment

¹¹ Affordable Homes Programme 2011-2015 - Framework, Para 3.14, Page 17, Homes & Communities Agency:
<http://www.homesandcommunities.co.uk/sites/default/files/our-work/affordable-homes-framework.pdf>

There are also circumstances where a fixed tenancy may be more appropriate. For example, there is a particular shortage of certain types of housing such as family homes with 3 or more bedrooms, accessible or adapted housing and homes suitable for those with long term care and support needs. To ensure scarce housing is fully utilised a fixed tenancy linked to the occupancy of those with the need may be more appropriate (such as whilst children are of a school age). If, upon review, the original need is no longer present, then a sensitive assessment of the needs of the remaining occupants should be made.

The Council is keen to support community cohesion and as such we feel that using fixed/flexible term tenancies may be useful if the housing provider is accommodating a household with a history of being a poor tenant (for example where there has been anti-social behaviour, rent arrears, property damage or abandonment). We would expect that all housing providers will consider the issue of exceptional circumstances so that the issue is clear and transparent within their tenancy policies.

To support tenant mobility, help address unsuitable housing situations, tackle under-occupation and support area regeneration we expect that tenants transferring to be offered a tenancy similar to their existing one, for example maintaining either a secure/assured tenancy or a fixed/flexible tenancy.

Similarly, if someone is transferred as a result of harassment or domestic violence then we would expect them to be granted a tenancy on similar terms. Without this surety there is a risk a household could remain in an abusive situation.

Policy 1c: Where the tenancy is set for a term, the length of the term

Where fixed/flexible tenancies are used we expect the minimum duration to be 5 years (2 years in exceptional circumstances) excluding any introductory or probationary period. Any exceptional circumstances would need to be agreed with the Council.

At present fixed term tenancies are generally being granted for 5 years. We encourage providers to consider basing the duration of fixed/flexible tenancies on the needs of the household. For example, when housing need is based on children the Council can see no reason why the duration of a fixed term tenancy could not be until all the children have left education.

By linking tenancy duration to need we will help to remove unnecessary worry for households and enable them to engage with their community, reduce the housing providers administrative burden and help make best use of the housing stock. However, we also recognise that a regular tenancy review can ensure the stock is more effectively utilised as, for example, family make up changes over time. When providers review their tenancy policies we would like them to consider these points as part of the process.

If a provider wished to grant a tenancy shorter than 5 years, this should be an exception and agreed with the Council. Exceptional circumstances could enable a household to deal with a temporary short term crisis or for example, to make use of properties for a temporary period where development plans will necessitate a future decant. Landlords need to be clear and transparent on the matter of exceptional circumstances within their tenancy policies.

Policy 1d: The circumstances where the Landlord will grant a further tenancy on the coming to an end of the existing tenancy

As a general rule we expect fixed/flexible tenancies to be renewed at the end of the fixed term unless there has been a material change in circumstances affecting the households suitability for the home or the homes suitability for the household.

The following principles are expected for tenancy renewal:

- (i) The tenancy renewal review should be concluded by the landlord not less than 6 months from the renewal date. This is to allow sufficient time for appeals and alternative housing options to be identified when a tenancy is not to be renewed.
- (ii) The review should be used as an opportunity to link the household to any necessary support, including employment support, and should be done in partnership with other agencies where appropriate such as social services.
- (iii) Tenancies should not be renewed where households are under occupying to help us make best use of the housing stock. Suitable alternatives should be offered to the household if they are still in need.
- (iv) Tenancies should not be renewed on adapted and wheelchair suitable properties where the adaptations are no longer required to help us make best use of the housing stock. Suitable alternatives should be offered to the household if they are still in need.
- (v) Tenancies should not be renewed where there has been a significant improvement in the households' financial circumstances that enable them to afford¹² suitably located¹³ non social housing appropriate to the households needs. The viability of other appropriate housing options should be discussed with the tenant such as intermediate housing, the Right to Buy, private renting, shared ownership or owner occupation. Practical considerations also need to be taken into account, such as the relative security of their income/employment, the impact of credit/debt history on obtaining finance and other vulnerabilities.

¹² Affordable is deemed to be when no more than 35% of the households net income (including benefits) is spent on rent or mortgage payments

¹³ Suitably located is currently deemed to be consistent with the Broad Rental Market Area set by the Valuation Office Agency

- (vi)** Tenancies should not be renewed where there has been a serious and persistent breach of the tenancy agreement such as anti social behaviour and criminality. Before making the decision not to renew, the impact on wider family members needs to be taken into account along with the impact on the community and neighbours. However, to protect the wider community, we would expect providers to take prompt action to address tenancy breaches rather than delay and rely on the tenancy renewal process.
- (vii)** To help prevent fraud and make sure tenancies are only renewed when appropriate, tenants should be obliged to fully engage with the review process, such as by providing financial or relevant medical information. If a tenant fails to do this then consideration should be given to not renewing the tenancy. It is important that housing providers take full account of any vulnerability issues when making such a decision and offer full support if the tenancy is not to be renewed.
- (viii)** Tenancies should be renewed even if a need is no longer present in cases where a tenant has successfully undergone treatment and not renewing the tenancy could lead to a regressive situation likely to impact on the tenants welfare and other statutory services. This may be appropriate for those recovering from severe illness, addiction or former street homeless who have successfully sustained their tenancy. If the housing is underutilised or unsuitable then alternatives should be offered to make best use of the housing stock.
- (ix)** If it is likely a tenancy is not to be renewed then a housing needs and financial assessment should be carried out. This should determine if a tenant or a member of their family would be deemed to be in “priority need” for accommodation and, if homeless, would require the Council to accommodate the

household. In these situations, the tenancy should be extended. However, if the housing is underutilised or unsuitable then alternatives should be offered to make best use of the housing stock. Should the provider not be able to accommodate within their own stock they should enter into early discussions with the Council.

- (x) Where a household is required to move as a condition of tenancy renewal then the tenant should be given the appropriate level of support during this process. Tenants should not be evicted until suitable accommodation is available. Other agencies such as social services should be involved where relevant.

It is essential that landlords clearly communicate their tenancy renewal terms in their Tenancy Policies and make sure that new tenants when they are offered flexible/fixed tenancies understand what will lead to the tenancy being renewed or terminated.

In addition, landlords will need to make it clear from the outset to new tenants, in their Tenancy Policies and as part of the tenancy review how the renewal process works, when it happens, what happens if it is decided not to renew the tenancy and how to complain.

A clear understanding will help people, particularly the vulnerable, feel connected and settled and also able to contribute to their local areas and to invest in their homes. Social housing also comes with responsibilities and there should be a link between expected behaviour and tenancy renewal which needs to be strongly communicated at the start and throughout the tenancy.

Policy 1e: Our expectations with regard to appropriate and consistent housing advice and assistance at the end of a tenancy

We believe and expect landlords to provide targeted and effective housing advice consistently throughout the lifecycle of the tenancy:

- when the property is advertised
- as part of the tenancy sign up process
- during the tenancy
- as part of the tenancy review process
- where a decision is made to move a household
- where a decision is made not to renew a tenancy

In addition, the landlord's policies and processes should be clearly detailed and explained in the Tenancy Policy which should be freely available and readily accessible.

Where a decision is made not to renew a fixed term tenancy the landlord is required to give advice and assistance that will enable the person to secure accommodation available to them. Advice should be tailor made based on the household's needs and circumstances and given face to face using a Housing Options approach. Landlords should consider working with other agencies that can make a real difference such as the Credit Union to encourage tenants to save for move on costs.

The Council and Registered Providers house some of the city's most vulnerable residents. We expect social housing providers to remain committed to the city's homelessness prevention agenda and support their tenants when their home is at risk. It is essential that we help those moved on and do not move those who are vulnerable.

Policy 1f: Consistent and transparent complaints process

It is important that landlords have a clear and transparent process in which a tenant or prospective tenant may appeal against or complain about the length of the fixed term tenancy offered, the type of tenancy offered, against a decision to move the household and against a decision not to grant another tenancy on the expiry of the fixed term.

There are many good practice examples of review and appeals processes already in existence in the area of allocations and homelessness decisions and the Council would encourage Registered Providers to mirror these provisions.

The City Council expects Tenancy Policies in this area to:

- Set out to whom appeals or reviews should be made (this is expected to be a more senior officer not involved in the original decision) and how they can be made
- Give timescales for dealing with appeals or reviews
- Set out how the tenant can take their appeal or review further if they are dissatisfied with the response i.e. to a tenant panel or Housing Ombudsman
- Identify where they may get independent advice
- Be accessible and easily available i.e. published on websites and available in local offices.

Policy 1g: Granting discretionary succession rights

For all new tenancies created since 1 April 2012 some rights of succession have changed. Where a tenancy is granted to one person, the legal right of succession is now limited to a spouse or civil partner living with the tenant at the time of the tenants death.

The legal right of succession for children has been removed but social housing providers may introduce discretionary rights for people to succeed that do not have a legal right to do so. The Council understands the competing needs for social housing and the issues that tenants have with in wanting their children to succeed to a tenancy when they die. This has to be measured against rising waiting list for accommodation.

The rights for joint tenancies remain the same; if one joint tenant dies the remaining joint tenant has the right to remain (this is known as “survivor” rights). There is no right of further succession to a joint tenancy.

The Council does not consider that a blanket ban should be imposed on discretionary succession to social housing. The Council would however expect all landlords to include discretionary succession within their Tenancy Policies and would expect the following matters to be included:

- Who may apply for a discretionary right to succeed
- What maximum household income may be applied
- What maximum length of residence should be applied
- What priority factors will be used to decide discretionary succession
- Details of the appeals and complaints process

The Council would not expect any person to be able to succeed to a tenancy where this would result in a property to be under occupied or ineffectively utilised (such as adapted homes where the adaptations are no longer required). The council would also expect that a person not given the right to succeed should be given appropriate advice and assistance.

Policy 1h: Rent in advance, deposits and fees

Providers must not seek rent and deposits in advance or charge fees to new tenants for items such as referencing, lettings or administration etc when letting social housing tenancies including Affordable Rent tenancies.

Policy 1i: Allocations Policy

Tenancies must be let in accordance with the Council’s **Allocations Policy** and through **Sussex Homemove**.

9. Policy 2: Affordable Rents

9.1 Background

The Government's public subsidy to support the development of new affordable housing is now based on the principle that the social housing provider will charge up to 80% of market rents on the new homes built (and also on an agreed number of existing homes when they are relet). This extra rental income allows the provider to borrow more money to pay for building the homes which in turn means the government has to invest less public subsidy.

9.2 Our approach

Brighton & Hove is facing a significant housing shortage. Not only is homelessness increasing but housing costs are higher and rising faster than the regional and national averages. Increasing the supply of housing, in particular affordable housing is a key priority of the city's Housing Strategy 2009-2014. Without the use of Affordable Rents we are likely to see little or no development of new affordable housing over the foreseeable future. However, at the same time we need to ensure that the rents remain affordable.

Policy 2a: No impact on existing tenants

The introduction of Affordable Rents will have no impact on existing tenants unless they choose to move to an Affordable Rent home.

Policy 2b: Keeping Affordable Rents truly affordable

We want to make sure that Affordable Rent homes remain affordable and do not encourage long term benefit dependency. In view of this we would expect Affordable Rents to be set at the lower of either 80% market rent level or the Local Housing Allowance (LHA) limit.

Our modelling suggests that 1 bedroom flats would be charged at 80% market rent however larger homes are likely to have their rent capped at the Local Housing Allowance limit:

Indicative Affordable Rent Levels: Capped by Local Housing Allowance (per week)			
	1 bed	2 bed	3 bed
Local Market Rent * (2012 Q2 Apr-Jun)	£ 177.04	£ 252.25	£ 313.28
80% Market Rent	£ 141.63	£ 201.80	£ 250.62
Local Housing Allowance Limit (2012-13)	£ 150.00	£ 184.62	£ 219.23
Affordable Rent Basis	80% market	LHA cap	LHA cap
Affordable Rent per week	£141.63	£184.62	£219.23
Affordable Rent as a Percent of Market Rent	80%	73%	70%
Estimated net annual income required if not on Housing Benefit **	£ 21,042	£ 27,429	£ 32,571
Estimated gross annual income required if not on Housing Benefit **	£ 27,734	£ 37,114	£ 44,811
Estimated impact of cap on number of affordable rent properties (for every 10 planned at 80%)	No impact	2 extra conversions	3 extra 2 bed home conversions (see Policy 2d)
* Source: BHCC Quarterly Housing Costs Update Report (2012 Q2) based on sample monitoring of the homes advertised in the weekly Latest Homes magazine			
** Assumptions: Including all benefits except Housing Benefit and based on housing costs at 35% of net total income to be affordable			

Should Universal Credit see LHA rates removed or no longer identified within a single Universal Credit payment then we will review our affordability criteria at that point.

Policy 2c: Ensuring higher rents support local housing delivery

Social housing providers will need to convert a small number of existing homes to affordable rents when they are available for reletting to help fund new developments. Where possible, we would expect this to only happen to properties in Brighton & Hove when the additional money raised is to directly support development in the city.

Policy 2d: Protecting family housing

As the city has a relatively small supply of family sized social housing and limited opportunities to develop more we want to protect those homes that we currently have. The lower social rents on these homes are particularly important in helping low income households gain employment and move away from benefit dependency. Under this policy we expect there to be no conversion to Affordable Rent of larger family homes with 3 or more bedrooms. It is important to note that this is not expected to impact on the financial viability of developments as our modelling suggests that due to the impact of the Local Housing Allowance rent caps on bed homes, the conversion of smaller homes represents better value for money and use of resources for providers.

Policy 2e: Tenancies & Lettings

Affordable Rent tenancies must be fully consistent with this policy, **Tenancy Strategy Policy 1: Tenure**, the Council's **Allocations Policy**, advertised through **Sussex Homemove** and primarily aimed at those with an identified housing need.

Policy 2f: Local authority involvement

Brighton & Hove City Council should be jointly involved with the social housing provider and the Homes & Communities Agency as part of discussions around the Affordable Housing Programme funding bid, tenure mix, rent levels and conversions.

Appendix 1: Equality Impact Assessment

The policies in our Tenancy Strategy have the potential to impact on all households in the city as anyone could find themselves in a crisis, such as through redundancy or illness that causes them to lose their home and require housing assistance through no fault of their own.

Our equality impact assessment has highlighted that the policies will have different impacts on different groups and where appropriate we have developed mitigation measures within those policies to ensure they provide an appropriate level of support:

- *Policy 1: Tenure*
We believe that flexible/fixed term tenancies are not appropriate for certain groups such as those moving from institutional setting or treatment where lack of a lifetime tenancy could either prevent the move or cause a relapse. We also recognise that using fixed/flexible tenancies to allow homes to be freed up when no longer fully required, such as family sized homes or adapted/wheelchair housing places the existing household at a disadvantage compared to having a lifetime tenancy. However where a household is required to move an assessment will ensure that those with ongoing needs are able to stay in social housing, although in a different home.
- *Policy 2: Affordable Rents*
Those choosing an affordable rent home will be doing so in the knowledge that the rents are higher than traditional social housing. As a safeguard against changes in life circumstances, we expect rents to not exceed the Local Housing Allowance rate to ensure that they remain affordable to those on benefits.

Monitoring of the impact of these policies will help us establish whether certain household types are being excluded or disadvantaged which could trigger a review of this strategy.

Useful Links

- **Housing Strategy 2009: healthy homes, healthy lives, healthy city**
www.brighton-hove.gov.uk/housingstrategy
- **Housing Statistics Bulletin**
www.brighton-hove.gov.uk/index.cfm?request=c1202854
- **Housing Costs Report**
www.brighton-hove.gov.uk/index.cfm?request=c1202875
- **Property Prices and Housing Benefit Comparison Report**
www.brighton-hove.gov.uk/index.cfm?request=c1202875
- **Homeless Strategy**
www.brighton-hove.gov.uk/index.cfm?request=c306
- **Allocations Policy**
www.brighton-hove.gov.uk/downloads/bhcc/housing/BHCC_Allocations_Policy_March_2012.pdf
- **Sussex Homemove**
www.homemove.org.uk/
- **Housing Advice**
www.brighton-hove.gov.uk/index.cfm?request=c306#SubTitle4
t: 01273 294400

Housing Strategy Team

Brighton & Hove City Council
4th Floor Bartholomew House
Bartholomew Square, Brighton BN1 1JE

t: +44 (0)1273 293055

e: housing.strategy@brighton-hove.gov.uk

w: brighton-hove.gov.uk/housingstrategy



Brighton & Hove
City Council