

# Government Housing policy: why we should oppose 'fixed term tenancies' and 'affordable' rents

Swindon Council has to take a number of important decisions in relation to its council housing, and its tenants, as a result of new government policy. We look here at the issues and suggest how the Council should respond.

## 'Tenancy strategy'

Every Local Authority (LA) which has Council housing stock has to consult by December on a 'tenancy strategy'. One of the key issues this involves is the question of 'fixed term tenancies' which a LA can introduce if it so chooses. It is not obliged to, it can maintain the current secure tenancies. 'Fixed term tenancies' would apply to new tenants only. They would be for a minimum of two years though we understand that Swindon Council is considering 5 year fixed term tenancies. With each one it would have to decide whether or not to renew the tenancy or tell the tenant they had to leave.

What criteria would they use to make that decision? One of the possibilities discussed at the national level was that if the economic circumstances of an individual or family changed then they could be considered not to 'need' the tenancy; they might be deemed able to 'afford' to take out a mortgage on a private sector house, or to move to private rented accommodation (currently double the cost of Council rent in Swindon). The Council would in effect be saying to the tenant that they were earning 'too much' to justify keeping a council tenancy. How much would 'too much' be? The Council would have to decide what income level was the cut-off point after which they would show the tenant the door. This would inevitably be an arbitrary figure and would create much bad feeling if somebody was asked to leave because they were earning a few pounds over the cut-off point.

Fundamentally 'fixed term tenancies' mean *the introduction of a means-tested tenancy* and would logically mean accepting that council housing was only for the very poor, pushing out people who, for instance, got a better paid job. It would be likely to produce a decline in the numbers of tenants in work. Whilst we don't have a figure for Swindon we know that nationally around 22% of tenants of working age are in full-time work, 10% part-time (these are 'heads' of households). The last English Housing Survey suggests 41% of 'social housing' homes have at least one household member in work. The introduction of a 'fixed term tenancy' would almost certainly create a situation whereby only tenants who were unemployed or unfit for work, or on very low wages if they did work, would remain as tenants.

**Swindon Tenants Campaign Group** is opposed to fixed term tenancies because

- ➔ they would entail *inequality of treatment* for different tenants (existing tenants would not be affected); and
- ➔ the operation of a means test would inevitably ensure that council housing remained only a tenure for the very poor, the disabled and the disadvantaged; a 'tenure of last resort';
- ➔ it would mean driving individuals or families into the insecurity of the private rented

sector.

How can you develop 'mixed communities' (something which the government pays lip service to) if the shortage of available housing, and government policy, ensures that only the very poor, be they in work or out of it, have any hope of gaining a tenancy? Anybody whose employment situation improves would be forced out because they were determined to be 'too well off'. As tenants approach the end of their fixed term the threat of losing their tenancy would inevitably act as a disincentive to work.

The adoption of fixed term tenancies would also place an onerous administrative burden on a LA. Whilst the numbers of people affected might not be so big to begin with, as existing tenants would maintain their secure tenure, it would not take very long until a majority of tenants were on a fixed term tenure. We have an annual turn-over of tenants of around 1,000 each year, so within 5 years the Council would have to manage fixed term tenancies on around half of the stock. Whilst we can't judge how many people would be told to leave, it would certainly increase the number of voids (and thus, lost rent) and would significantly increase the cost in staff time in examining the income of tenants and deciding whether or not they should be granted a renewal of their tenancy. It is not beyond the bounds of possibility that the circumstances of somebody who lost a tenancy might change later on and the Council would pick up the responsibility of housing such people once again in the future. In all probability there would many appeals against a decision to end the tenancy which the Council would have to deal with.

Ironically this policy would probably mean asking people who pay full rent, to leave, thus ending a guaranteed income stream for the council; replacing them with a tenant who would most likely be on Housing Benefit (or the HB element would be included in the Universal Credit from 2014).

## **Minefield**

The criteria for determining who should or should not have their tenancy renewed would be a minefield. It would be very difficult to set any objective criteria. This is shown by the response of Swindon Borough Council to the government's consultation. If the same criteria isn't applied to everybody then Council officers would have to make a potentially life-changing decision for someone based on criteria which threaten all manner of injustices when you have to decide if this or that person or family has to leave.

One of the questions the consultation asked was "will the same criteria be applied equally to all tenants or will certain categories be exempted, or allowed to have their tenancy renewed at the end of the five years?" In reply SBC said:

"For example the Council would find it hard to justify the termination of a tenancy whilst children were still at school."

It also said that

"The basis for any minimum fixed term of tenancy must be that the household in question must be capable at some point in the future of accessing unsubsidised housing in the local housing market. This will be unlikely for some groups and therefore lifetime tenancy must

remain an option."

To the question "Do you think that older people and those with long term illness or disability should continue to be provided with a guarantee of a social home for life through the Tenancy Standard?" SBC answered "Yes".

To the question as to whether or not there are other categories of people who should be guaranteed "a home for life", SBC responded:

"For some households that have experienced considerable instability the prospect of a fixed term tenancy may be inappropriate and not conducive to successfully living independently on a permanent basis. For these households the anxiety created by fixed terms should not apply. Examples include severe cases where members of the household have been the victims of crime e.g. domestic violence."

These responses show the difficulty of deciding who should or shouldn't keep their tenancy or lose it. Fixed term tenancies would increase the power of Council staff over tenants and frankly would introduce an element of fear for their future.

Contrary to those who think that home ownership is necessary to create pride and a sense of responsibility, tenants who have security of tenure tend to treat their accommodation as their home, rather than as transient property. Insecurity of tenure might well have a negative impact on the way they treat the property.

**Swindon Tenants Campaign Group** believes that the Council should reject the adoption of a fixed term tenancy because it is morally repugnant and

- ➔ It would be unjust to treat different tenants in different ways;
- ➔ We should reject the idea of a means tested tenancy;
- ➔ It should be recognised that managing and policing fixed term tenancies would be a waste of resources which could be better spent on our housing stock and the service we offer to our tenants.

Part of the motivation for the idea of fixed term tenancies is that it will supposedly enable the 'best use' of stock; the same idea behind the 'bedroom tax' which will financially penalise tenants who currently receive Housing Benefit if they have 'too many' bedrooms (See <http://keepourcouncilhomes.wordpress.com/2012/04/21/campaigning-against-the-bedroom-tax/> ). Yet however the allocation of homes is handled, the fact is that there is a massive shortage of housing which can only be addressed by a large scale Council house building programme (see below).

### **"Right to Buy"**

The government is introducing an enhanced 'Right to Buy' (RTB) scheme, whereby after the qualifying period of five years, a tenant would be able to buy their house with a 35% reduction on its price, with an extra 1% added on for every year over 5 (e.g. a tenant for 20 years would get a 50% reduction). The reduction for flats would be 50% after five years plus 2% for every year above five.

Government policy is supposedly 'one for one' replacement; the building of a new council house, though with an "affordable rent" at 80% of the 'market rate' (rather than a 'social rent'). However, the government has admitted that some councils will not be able to afford to build replacements. They will be, therefore, responsible for a situation where in some areas there will be a *decline* in the number of Council houses available because Councils will not be able to build replacements. This will lead to an inevitable increase in the numbers on the waiting list.

Ironically, for all its talk of 'localism' and giving power back to the localities, the government is *imposing some rigid central rules* on Councils in the way that the RTB is applied. For instance, they are saying that every LA will have to sign a binding agreement with the government that they will use only 30% of RTB receipts on replacement homes. Why? This unexplained bureaucratic rule from the centre is the very reason why many LA's will be unable to build replacement homes.

Even worse, if a LA has insufficient money from a sale to enable it to build a replacement, so it does not feel that it can sign an agreement with the government, *then the receipt will in effect be stolen by the government and spent elsewhere*. The LA will have to hand over this money to central government. To say that this would be unjust is an understatement, especially as the 'self-financing' settlement has involved Swindon (and other authorities) taking on a large amount of 'debt' to 'buy ourselves out' of the previous system (£138.6 million). The government is charging us an annual interest on this debt that wasn't ours. So why are they proposing to take receipts from homes which strictly speaking belong to the LA rather than them? Moreover, such a rule means that there is more likelihood of replacement houses being built in areas where house values are highest.

The Local Government Association (before the recent local elections, when it had a Tory majority) has demanded that LA's should be able to keep *all* their receipts, otherwise all talk of local control is nonsense. We are opposed to RTB which has been a disaster (See <http://keepourcouncilhomes.wordpress.com/2012/02/01/why-the-right-to-buy-should-be-abandoned/> ), but so long as it exists we don't see why the government should be taking any money from the receipt, nor determining how much of it a LA should be able to use.

**The Council should challenge the right of the government to steal away the receipts for any RTB sales. The issue should be taken up with our MPs.**

It remains to be seen whether Swindon Council considers that it would be in a position to build replacement homes, given the level of receipt it will have for any home bought under the enhanced RTB scheme. The Council has to decide whether to sign an agreement with the government. Whilst we can understand the reluctance of any Council to have its RTB receipts taken by the government, if it signs an agreement with insufficient funds to build a replacement home then it will have to use money which should be spent on the maintenance of the existing stock, for that purpose.

If the Council does sign an agreement with the government it would be obliged to make the rents for any replacement housing at the 'affordable' level (80% of the local market rate). **Swindon Tenants Campaign Group** is opposed to 'affordable rents' (which could more

accurately be named *unaffordable* rents) which would create a two tier rent system for different tenants. Many people simply would not be able to afford these rent levels. The Council's Homebid system shows that these so-called 'intermediate rents' (costing somewhere between Council rents and the market rate) are not very popular, with very low levels of interest. So much so that the Council's Strategic Housing Market Assessment raises the question of whether these 'intermediate rents' should be reclassified so that the accommodation becomes 'general needs' (which is to say Council rents).

It remains to be seen what level of take-up there is on the RTB scheme. It may not be very great because of the level of impoverishment of many tenants and because of the difficulty of getting mortgages in the current economic and financial environment. *In any case if the Council builds new council homes from its own resources then it does not have to apply the 80% rent.*

### **Spending cap**

Under the new housing finance system the government, as well as loading us up with extra debt, has imposed a borrowing cap, which means that the Council will have at its disposal for new build or upgrading stock around £21 million. We understand that the Council is considering building some new Council housing. However, the numbers it would be able to build, owing to this cap, would be totally inadequate, given the numbers on the housing list. We have raised the need for this cap to be lifted. The Communities and Local Government Parliamentary Committee in a report which has just been published has also called on the government to lift this borrowing cap so that Councils could build more homes.

Swindon Council should demand the lifting of this cap. The housing crisis in Swindon (see <http://keepourcouncilhomes.wordpress.com/2012/02/27/swindons-housing-crisis/> ) and nationally, can only realistically be addressed by a serious large scale Council house building programme. Even if under RTB there was 'one for one replacement' (there won't be) this will do nothing to tackle the housing waiting list. In the absence of government money for new Council housing they could at least allow Councils to determine how much of their own money they can spend. LA's should be able to borrow money from the Public Works Loan Board based on their revenue stream of rents.