

# TENURE POLICY

## Contents

1.0 Scope .....	30
2.0 Purpose .....	30
3.0 Aims and Objectives .....	30
4.0 Regulatory Code and Legal Framework .....	31
5.0 Policy Outline .....	31
5.1 Types of Tenancy To Be Granted .....	31
5.2 Usage of Licenses.....	32
5.3 End of an Introductory Tenancy Period.....	32
5.4 End of Fixed Term Tenancy.....	33
5.5 Review Process .....	34
5.6 Usage of Demotion Powers .....	36
5.7 Tenants with Support Needs.....	36
5.8 Advice and Assistance in Accessing Alternative Accommodation .....	37
6.0 Related Policies, Procedures and Guidelines .....	37
7.0 Review .....	37
8.0 Document History and Approval .....	38

## 1.0 Scope

The Tenure Policy provides a framework for outlining which tenancies the Council will grant and in what circumstances the different tenancies will be offered.

It also provides detail on how the Council will administer its different tenancies.

The fixed term tenancies will only apply to those tenants who are in general needs housing stock. Those tenants that are in accommodation for older people (attracting a service charge for the services provided for those services) are exempted and will be granted secure tenancies subject to satisfactory completion of the introductory tenancy.

## 2.0 Purpose

The purpose of the Tenure Policy is to ensure that the Council is acting in accordance with the provisions of the Localism Act 2011, which introduced more flexible tenure arrangements.

A revised Regulatory Framework was introduced by the Homes and Communities Agency now Homes England and requires the Council as part of the Tenancy Standard to:

- Let out homes in a fair, transparent and efficient way, provided we take into account the housing needs and aspirations of tenants and potential tenants;
- Demonstrate how our lettings make the best use of available housing, are compatible with the purpose of the housing and contribute to the local authorities strategic housing function and sustainable communities;
- Have clear applications, decision making and appeals processes;
- Publish clear and accessible policies which outline our approach to tenancy management.

## 3.0 Aims and Objectives

The Aims and Objectives of the Policy are to detail;

- The types of tenancies that the Council will grant;
- When a fixed term tenancy is granted, the length that the fixed term tenancy will be;
- The circumstances in which the Council may or may not grant another tenancy on the expiry of the fixed term in the same property or in a different property;
- The appeal process for a tenant or prospective tenant to complain about the type of tenancy offered, a decision to extend or end an introductory tenancy and a decision not to grant another tenancy on the expiry of the fixed term.
- How the needs of households who are vulnerable by reason of age, disability or illness and health, families with children, including the provision of

tenancies which provide a reasonable degree of stability will be taken into account;

- The advice and assistance the Council will give tenants in finding alternative accommodation if we decide not to grant another fixed term tenancy.

## **4.0 Regulatory Code and Legal Framework**

- Housing Acts 1985 and 1996 as amended
- Localism Act 2011
- Equality Act 2010
- Human Rights Act 1998
- Homelessness Reduction Act 2017
- Housing and Planning Act 2016

The relevant regulatory position is found in the Tenancy Standard of the Regulator of Social Housing Regulatory Framework.

## **5.0 Policy Outline**

### **5.1 Types of Tenancy To Be Granted**

The Council is able to offer and administer three types of tenancies:

- Introductory
- Fixed Term and
- Secure

#### Introductory Tenancies

All new tenants, unless they are protected by social housing security from their last settled address will be granted an Introductory Tenancy.

An Introductory Tenancy lasts for the first 12 months. An Introductory Tenancy can be extended for a further 6 months as long as a notice has been served on the tenant at least 8 weeks before the original expiry date, with reasons. The tenant can request a review of the decision to extend within 14 days of the notice being served

#### Fixed Term Tenancies

Following the end of the introductory tenancy period, the Council will grant a fixed term tenancy. The length of the fixed term tenancy period will be 5 years. This is in addition to the 12 months introductory tenancy period

At the end of the Fixed Term the Council has the option in accordance with the agreement to consider if it wishes to offer a new Fixed Term tenancy, this will be for a further 5 years.

Fixed Term tenancies will only apply those in general needs housing.

## Secure Tenancy

Existing secure tenants will retain their security of tenure and continue as secure tenants. Tenants who transfer to the Council from another Council or Housing Association will be granted a secure tenancy or a tenancy on equivalent terms, internal transferring tenants will also be granted a secure tenancy.

If a tenant wishes to add or remove a person to or from their existing secure tenancy then a new joint or sole secure tenancy will be granted. If a tenant wishes to add or remove a person to or from a fixed term tenancy, then a tenancy on equivalent terms will be granted.

If a secure tenant is required to move temporarily to alternative accommodation due to redevelopment or works taking place at their property they will retain their security of tenure on their return to settled accommodation.

Secure tenancies will also be granted to those tenants in accommodation for older people following satisfactory completion of the introductory tenancy.

## **5.2 Usage of Licenses**

The Council uses license agreements in circumstances where the occupancy of a property is anticipated to be temporary.

Licences may be used in other special circumstances approved by the Chief Officer.

## **5.3 End of an Introductory Tenancy Period**

The Council will make every effort to assist introductory tenants to make a success of their tenancy through a programme of regular visits, access to the Tenancy Sustainability Service and referrals to specialist support to help sustain the tenancy.

A review will be undertaken to ensure that the introductory period has been conducted successfully. Subject to the satisfactory completion of the introductory tenancy period, the tenant will automatically move to a fixed term tenancy.

No new tenancy is required to be signed by the tenant upon completion of the introductory tenancy period; however tenants will be notified in writing by a fixed term tenancy conversion letter.

### Extension

The Council may extend the introductory period for a further 6 months when the Council is satisfied that the terms of the tenancy are not being met by the tenant but is not to an extent that the Council believes that the tenancy needs to be ended immediately.

Tenancy breaches which may result in an extension to the introductory period could include:

- Breaches of tenancy which have only recently been identified by the Council and the tenant requires additional time to remedy the breach;

- Breaches which are not serious enough to warrant a notice being served;
- Serious breaches which have occurred but the tenant is engaging with specialist support to address and resolve the tenancy breaches.

The tenancy could be extended if the breach of tenancy occurs after the tenancy is reviewed, or where the behaviour of the tenant is still being monitored following an earlier breach of tenancy.

The extension period provides the tenant with the opportunity to modify their behaviour and remedy any specific breach of tenancy.

The tenant will be notified of the proposed extension and their right to request a review of the Council's decision.

### Termination

The Council may apply to the Court to end the introductory tenancy, if an extension is not considered appropriate or the breach has not been remedied during the extended period.

The Council will consider this action when a serious breach of tenancy has occurred and continued occupation by the tenant is having a serious impact on the Council's housing management function.

The Council can apply to the Court to end an introductory tenancy in the following circumstances;

- Serious breaches of tenancy for example; serious anti-social behaviour, criminal activity or persistent failure to pay rent

The tenant will be notified of the proposed extension and their right to request a review of the Council's decision.

## **5.4 End of Fixed Term Tenancy**

At the end of the initial 5 year fixed term tenancy, a formal review will be undertaken to decide if the Council wants to offer a further 5 years fixed term tenancy.

The review will take place no later than 12 month's prior to the end of the fixed term tenancy. It is considered that the majority of fixed term tenancies will be renewed upon review.

The Council will take the following issues into consideration:

- Whether the conditions of tenancy been complied with
- Whether a Notice of Seeking Possession or court proceedings for possession of the property have commenced
- Whether the property is under-occupied by more than one bedroom. In these cases the Council will make an offer of suitable accommodation to the tenant.

- Whether the Council requires vacant possession of the property to allow for major repairs, improvements, modernisation or demolition. In these cases the Council will make an offer of suitable accommodation to the tenant.

Any decision as to whether or not to offer a further 5 year fixed term tenancy should take into account the following wider policy considerations:

- The Council's duty to prevent and alleviate homelessness
- Duties and obligations with regard to vulnerable groups and a child or children in need
- The purpose of the accommodation and whether this has subsequently changed since the tenancy commenced
- The needs of the individual householders and whether this has subsequently changed since the tenancy commenced
- The efficient use and management of the housing stock and the sustainability of the community

If, following the review, the Council does not intend to grant a new fixed term tenancy, the Council will give the tenant 6 months' notice of this decision in writing. The tenant has a right to request a review of the Council's decision.

If the Council decides not to issue a new fixed term tenancy or no review is requested by the tenant, the Council must serve the tenant with a notice before the end of the fixed term tenancy giving 2 months' notice in writing to the tenant of the Council's intentions and before making any application to the Court.

## **5.5 Review Process**

### Introductory Tenancies

Introductory tenants can request a review of the decision to extend their introductory tenancy or the decision of the Council to terminate their introductory tenancy.

Information on how to appeal the Council's decision will be provided both at the beginning of the tenancy and also with any notices that are served and actions to extend or terminate are thus initiated.

The tenant has the option to attend an oral hearing or request a review without attending a hearing.

The tenant has the right to be accompanied to the hearing and/or be represented by another person. The tenant or representatives can call witnesses, question any witnesses and make written representations.

Reviews must be carried out by an officer who was not involved in the original decision to apply for possession and must be an officer of greater seniority within the Council than the officer who made the original decision.

The tenant and his or her representative must have a proper opportunity to prepare for the hearing. Documents that the Council intends to rely on should be disclosed to the tenant and his or her representative in advance of any hearing.

The review will be conducted by way of a complete reconsideration of the decision and will examine whether the case officer has followed correct procedure and if the correct procedure has not been followed, the reviewing officer will need to determine whether this has caused any detriment to the tenant.

The reviewing officer will decide to either;

- Uphold the decision to terminate
- Uphold the decision to extend the introductory period by a further 6 months
- Decide not to proceed further with the case
- Uphold the decision to evict but agree to enter a suspended arrangement pending immediate rectification and agreements on future behaviour. (Such as the clearance of a rent account or a new agreement to clear arrears that is acceptable to the Council and is not to be broken)
- Uphold the decision to extend the trial period for a further 6 months and enter into a suspended arrangement pending immediate rectification and agreements on future behaviour. (as above)

If after full consideration of the case the officer conducting the review do enter into a suspended arrangement and the suspended agreement is not maintained by the tenant, the Council are not obliged to serve a second notice and offer a further review and may proceed straight to a court hearing for possession.

If the Review Officer decides not to proceed to eviction at the review, and to monitor the tenancy, then a new notice will need to be issued, and further review offered before the case can proceed to court.

Written notification of the outcome of the review will be given to the tenant before the date after which proceedings for possession may be begun. Nevertheless, this will be provided within 14 days of the review hearing. If the original decision is to proceed with possession or extend the trial period for a further 6 months is upheld, the Council will provide reasons why this is the case. If the review is successful, a fixed term tenancy will take effect at the end of the introductory period.

#### Fixed Term Tenancy Reviews

Tenants or prospective tenants may appeal a decision relating to a fixed term tenancy for the following reasons

- The decision not to renew their fixed-term tenancy
- The length of a fixed-term tenancy
- The type of tenancy offered



The Council will inform the tenant or prospective tenant in writing of their decision regarding the type of tenancy offered, the length of the fixed term or the decision not to grant another tenancy. The Council will inform the tenant or prospective tenant of their right to review or appeal and invite them to make representations to the Council of any personal circumstances or other matters which they wish the Council to take into account.

The tenant or prospective tenant has the option to attend an oral hearing or request a review without a hearing. The tenant has the right to be accompanied to the hearing and/or be represented by another person. The tenant or representatives can call witnesses, question any witnesses and make written representations.

Reviews must be carried out by an officer that was not involved in the original decision to apply for possession and must be an officer of greater seniority within the Council than the officer who made the original decision.

The Reviewing Officer will take into account the representations received from the tenant or prospective tenant when making a decision on the review.

The reviewing officer could decide that;

- The original decision made is appropriate
- That a different type of tenancy should be offered
- That a fixed term tenancy should be renewed

The tenant or the prospective tenant will be notified of the outcome of the review in writing within 14 days of the review to advise them of the decision that has been made.

## **5.6 Usage of Demotion Powers**

In cases of severe anti-social behaviour, as an alternative to seeking possession, the Council can apply to the Court for demotion of a tenancy. This demotion applies to secure or fixed term tenants and reduces their security to move in line with an introductory tenant. After 12 months, the security of tenure is restored if the behaviour of the tenant has not caused further concern. If the behaviour is still a cause for concern, the Council will consider possession action.

## **5.7 Tenants with Support Needs**

The Council will take into account the specific needs of vulnerable tenants and their families before making any decisions about extending or ending introductory tenancies and when reviewing fixed term tenancies.

Tenancy sustainment will be the main objective as opposed to enforcement wherever possible.

Officers will be mindful and have regard to at the outset of any tenancy and when making any judgements on whether tenancies should be extended, ended or renewed, whether issues of vulnerability have been identified and whether there are any unmet support needs. Referrals to support agencies should be made where possible and particularly if there is a threat of losing the home.

A key element of the reviewing officer's decision is to assess and consider the vulnerability of the tenant and decide whether the Council has acknowledged this adequately.

Tenants will have regular visits, particularly in the introductory tenancy period, to ensure any unmet support needs that have not been identified can be met, either by a referral to a health or support agency or by the Council's Tenancy Sustainability Service.

## **5.8 Advice and Assistance in Accessing Alternative Accommodation**

In circumstances where the introductory tenancy or fixed term tenancy is not going to be renewed the Council will provide tenants with appropriate advice, information and assistance to enable them to access alternative accommodation.

The Council will take all reasonable steps to ensure that appropriate advice in relation to alternative housing options is provided in order to prevent homelessness and in accordance with the Council's duties under the Homelessness Reduction Act 2017.

The Council will ensure that it takes all reasonable steps to ensure that fixed term tenants, have access to and support in accessing the Council's housing waiting list and ensure that their applications receive the appropriate priority level.

## **6.0 Related Policies, Procedures and Guidelines**

This policy should be read in conjunction with the:

- Tenancy Management Policy
- Tenancy Agreement
- Enforcement Policy
- Anti-Social Behaviour Policy
- Anti-Social Behaviour Procedure
- Rent Arrears Policy
- Rent Arrears Procedure
- Introductory Tenancy Procedure
- Fixed Term Tenancy Procedure

## **7.0 Review**

This Policy should be reviewed every 3 years unless tenancy agreements require to be changed, tenancy types change or because of significant changes in legislation.

**8.0 Document History and Approval**

<b>Date</b>	<b>Version</b>	<b>Committee Name</b>
06/06/2018	1.0	Housing Committee