

Fixed Term Tenancies

Background in Legislation

Between 1980 and 1988, different pieces of Housing Act legislation created 'long-term' security of tenure for tenants in social housing. These Secure Tenancies or Assured Tenancies are often referred to as lifetime tenancies.

The Localism Act 2011 legislated to give local authorities and housing associations discretion of offer fixed term tenancies to social housing tenants in England. The Localism Act 2011 introduced the power for local authorities to offer flexible tenancies for a minimum period of two years.

Following limited take up in fixed term flexible tenancies from 2012 onwards, the government saw to legislate further through the Housing and Planning Act 2016 that sought to prevent local authorities or housing associations from offering the most secure forms of tenancy in most circumstances.

Rationale and Roll out Across Housing Providers

The rationale from the government in introducing fixed term flexible tenancies was that a 'one size fits all' model was no longer appropriate and was seen to contribute to over or under occupation in social housing.

The then Housing Minister (2010) advised that;

“The Government believes that it is no longer right to require that every social tenancy should be for life – regardless of the household’s particular circumstances. The aim is to create a more flexible system so that scarce public resource can be focused on those who need it most”.

It was predicted that few local authorities and housing associations would utilise its new powers following the Localism Act 2011. By 2015, only 15% of tenancies offered in social housing were on a fixed term flexible basis. This brought about the change in legislation through the Housing Planning Act that sought to bring in fixed term flexible tenancies for local authorities, offering the same rights as a traditional secure tenant, but limited to a maximum period of five years, with certain exemptions.

What has been the Impact?

A study carried out by the Economic and Social Research Council (May 2018) have concluded that;

- There has been little evidence that social tenants adjust their behaviour as a result of having a fixed term tenancy.
- It was the cause of considerable distress for a minority, especially older tenants, those with a disability or health problems and some families with children.

- The prospect that people's fixed-term tenancies could be terminated on the grounds of a rise in income was disapproved by most tenants.
- There was mixed views on the notion that, in a context of acute pressure on the housing stock, under occupation could be a legitimate reason for non-renewal where alternative suitable accommodation could be made available.

The Social Housing Green Paper 'A new deal for social housing' from August 2018 announced that the Government would not implement the provisions "at this time".

It stated

"since the legislation, there has been a growing recognition of the importance of housing stability for those who rent".

"Many residents spoke about the benefits of security in their tenancies, saying that they created strong, supportive communities, and particularly enabled people with vulnerabilities to thrive. Some felt that residents were more likely to look after their property, their neighbours, and the community if they had a lifetime tenancy."

Situation at Broxtowe Borough Council

The January 2018 Housing Committee agreed to the introduction of five year fixed term tenancies offered to all new tenants following the completion of the 12 month introductory tenancy period.

Fixed Term Flexible Tenancies have been offered to all new Council tenants in general housing since April 2019. Those transferring between Council properties or from a housing association or those that have swapped with another tenant by Mutual Exchange are not affected.

There are 27 tenants that currently would be subject to a fixed term tenancy. (This number is correct as of August 2019) They are all currently in the 12 month Introductory Tenancy period and therefore no tenant of the Council currently is within the 5 year fixed term period.