



DOVER DISTRICT COUNCIL

TENANCY POLICY

INTRODUCTION

The Government's approach to social housing reform has provided the context for the development of this policy. This approach is aimed at:

- Enabling decisions about who lives where and for how long to be taken on the basis of local needs and circumstances.
- Delivering a social housing system that is better focussed and which protects and supports those that need it most.
- Shifts the perception of social housing so that it is seen as a springboard into work and self sufficiency

The statutory powers granted to social landlords in support of this approach are set out in the Localism Act 2011 which also includes a requirement for local housing authorities to publish a tenancy strategy by January 2013. Social landlords are expected to give due regard to this strategy when developing their tenancy policies.

The Council's Tenancy Strategy is in the process of being adopted by the Council following a period of consultation.

Affordable housing no longer has to be let on a tenancy for life. The Localism Act allows local authorities to grant for the first time 'flexible tenancies' for a fixed period. There are now a range of options available when issuing such tenancies in addition to the periodic (lifetime) tenancies traditionally issued. These new tenancies are a form of secure tenancy and generally tenants with a flexible tenancy will have the same rights as other secure tenants including the Right to Buy. The same grounds for seeking possession of a property are also available and can be used during the fixed term.

The minimum tenancy term that can be offered is 2 years but government has indicated that this should only be used in exceptional circumstances and that it would expect the normal minimum duration to be 5 years

The recently revised Tenancy Standard includes a requirement for all social housing providers to publish clear and accessible tenancy policies.

It is expected that tenancy policies will set out:

- the kinds of tenancies that the council will offer, and at what rent
- the circumstances in which tenancies will be granted
- the length of tenancies granted
- the process for reviewing tenancies
- whether the council will grant discretionary succession rights, and if so to who
- interventions used to sustain tenancies
- the council's approach to tackling tenancy fraud
- how frequently the policy will be reviewed.

POLICY AIMS

The aims of the policy are to:

- Meet the requirements of the Tenancy Standard
- Target scarce resources at those in greatest need
- Help deliver the objectives of the Tenancy Strategy particularly in relation to:
 - increasing the supply of affordable housing across the district;
 - making best use of the existing stock of affordable homes; and
 - supporting the development of sustainable, inclusive communities where people want to live.
- Support the Council's policy on tackling Anti Social Behaviour.

TYPES OF TENANCY

The general rule is that local authorities can only grant secure tenancies. The major exception to this is that they can elect to operate an introductory tenancy scheme. The Council's Tenancy Strategy supports the use of introductory and probationary tenancies. Currently, the Council does not grant introductory tenancies but under this policy the Council will work towards their introduction at the earliest opportunity.

Introductory ('probationary') tenancies

Section 124 of the Housing Act 1996 made introductory tenancies available for local authorities. They can be used only where a secure tenancy would usually exist and once introduced must be used for all new tenants except where set out below

The Council believes that probationary tenancies are an effective tool that can be used as part of a comprehensive strategy to deal with anti-social behaviour. It has signed up to the Respect Standard for housing management and one of the commitments is the adoption of introductory tenancies for new residents where appropriate

All new tenants will be granted an Introductory Tenancy for a period of 12 months. This 'trial' period may be extended for a further 6 months. During the trial period tenants have less security and fewer rights. For example:

- Their home is at much higher risk of repossession if they do not keep to the tenancy agreement
- They cannot buy their home
- They cannot exchange homes with other tenants

Probationary tenancies will not be used where:

- Someone is a secure tenant of a local authority immediately before the offer of accommodation (not necessarily the same local authority) or a secure or assured tenant of a housing association
- Where a secure tenancy is being assigned, including by way of a mutual exchange.

The use of introductory tenancies will help the Council achieve the following:

- Deter new tenants from behaving anti-socially or criminally
- Reduce ASB and nuisance behaviour among new tenants
- Encourage community stability and cohesion
- Reduce the impact of residents who behave anti-socially
- Enable early action for any serious breach of the tenancy agreement
- Encourage regular payment of rent

Secure tenancies

If the trial period is successfully completed, tenants automatically become secure tenants. If they had a secure tenancy (or other social housing equivalent) immediately beforehand, they are secure tenants from the beginning of the tenancy. Secure tenants have the full set of tenancy rights, as set out in the council's normal (non introductory) tenancy agreement.

Demoted tenancies

A secure tenancy may be ended by a court order for some kinds of antisocial behaviour and replaced with a demoted tenancy for a year. A demoted tenancy has less security and fewer rights. It is broadly like an introductory tenancy. It is a useful alternative to a suspended possession order in some cases.

Non-secure tenancies

There are a few exceptional situations that operate outside the normal framework of introductory, secure (and occasionally demoted) tenancies. These tenancies have less security and protection and normally apply to short term accommodation. The most common of these exceptions is tenancies granted by the council under its homelessness functions.

Joint tenancies The tenancies listed above could be granted on a joint tenancy basis in the following circumstances:

- the proposed joint tenants are both eligible for housing as defined by legislation **and**
- where the proposed joint tenants are married or civil partners **or**
- where the proposed joint tenants live together and the relationship is an 'established' one i.e. evidence is produced showing they have lived together for at least 12 months prior to the joint tenancy application **or**
- where the proposed joint tenants are in a 'mutually supportive' and 'established' relationship.

The council will not grant a joint tenancy to a person who is entitled to succeed to that tenancy (e.g. mother and daughter) as this could compromise its ability to make the best use of its housing stock in the future.

Applicants offered housing because of a secure joint tenancy ending

When one of the joint tenants moves out and the joint tenancy is ended, the remaining former tenant may be offered a sole tenancy of that property or, if appropriate, of an alternative, smaller property. If the leaving former tenant wishes to apply for housing, they must apply to join the register in their own right.

If the remaining former tenant qualifies to be offered the same property, East Kent Housing will complete on behalf of the Council a joint to sole tenancy report for consideration by the Council setting out recommendations. If the recommendation is to grant a new tenancy to the remaining tenant and this is agreed by the Council a direct offer of the property will be made which will not be part of the choice based lettings scheme.

If the remaining former tenant qualifies to be offered a smaller property a report recommending this will be prepared by East Kent Housing on behalf of the Council. If agreed the occupant will be made a direct offer of suitable alternative accommodation outside of the choice based letting scheme.

If the applicant subsequently refuses a suitable offer, they will have no right to remain in their current accommodation and East Kent Housing will on behalf of the Council seek possession of the property.

LENGTH OF TENANCY

Existing Tenants

The general rule is that for existing tenants their tenancy carries on indefinitely (lifetime tenancies), rather than for a fixed time. In legal terms, it is a weekly tenancy. It therefore continues running week-by-week (from first thing Monday to midnight Sunday), beginning with the date shown on the original tenancy sign-up sheet, until it ends.

Existing 'lifetime' tenants who have applied for a transfer and successfully bid for another Council property will be granted a 'lifetime' tenancy of this property.

New Tenants

As stated above all new tenants will initially be granted Introductory Tenancies for 12 months which may be extended for a further 12 months. At the end of this period, provided the tenancy has been conducted satisfactorily, the Council will normally grant a fixed term tenancy for 5 years. However, in accordance with the Tenancy Strategy, lifetime tenancies will be granted to the following groups of people:

- People over the age of 60 who will be granted the tenancy of housing specially designated for occupation by older people (eg sheltered housing and extra care housing).
- People over the age of 55 where there is no prospect of their home becoming under occupied in future – e.g. without children.
- People with an assessed, long-term illness, learning disability or enduring mental health problem which is unlikely to improve.
- Some former members of the regular armed forces where they are a:
 - I. Person who is serving in the regular armed forces or who has served in the regular forces within 5 years of the date of their application for an allocation of housing under Part 6 of the 1996 Act;

- II. A person who is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.

TENANCY SUSTAINMENT

The Council working in partnership with EKH will provide a number of support mechanisms for its tenants to enable them to sustain their tenancies. These include:

- A new tenancy visit conducted within 4 weeks of the tenancy start date to ensure that all new tenants are receiving the support they need
- Further structured home visits where necessary during the first 12 months of the tenancy at 1, 4 and 9 months to assess the conduct of the tenancy and if there are any additional support needs that are not currently being met
- Regular tenancy audits to update our tenant profile information and ensure properties are being maintained.
- A comprehensive needs assessment for those requiring supported housing pre-tenancy offer, at tenancy commencement and via on-going support where appropriate provided under the supporting people programme.
- Provision of information and services that go beyond the normal role of the landlord e.g. signposting for debt and welfare benefit advice, financial inclusion information, affordable warmth information and assistance to gain and maintain employment and training opportunities
- Developing constructive partnerships with agencies that can assist with the provision of, support and services to vulnerable residents, in particular:
 - Social Services
 - Citizens Advice Bureau
 - Shelter
 - Kent County Council Supporting People team
 - Probation
 - NHS Trusts
- Providing training for our staff that equips them with the knowledge of support services available from other agencies and know how to access them

TENANCY REVIEWS

Introductory tenancies

Under the Introductory Tenants (Review) Regulations 1997 Introductory tenants have the right to request a review of the council's decision to evict them. The process for carrying out such reviews will be in accordance with the regulations.

Fixed term tenancies

In accordance with the Tenancy Strategy the Council will only offer a tenancy for less than five years in exceptional circumstances such as:

- Discretionary successions where the property occupied is deemed not to be appropriate to the needs of the tenant. The granting of a 2 year fixed term tenancy, with the first year an

introductory tenancy, would allow a period of time for the tenant to secure alternative housing.

- Single people under the age of 25 who will be granted introductory tenancies of one year followed by tenancies that will be reviewed every two years. Once they have reached 25 and a decision is taken to grant a further tenancy, they will be offered a five year tenancy.
- Where the letting of properties within a defined area is to be subject to a local lettings plan which specifies the use of shorter fixed term tenancies to address specific issues such as anti social behaviour.

Where a fixed term tenancy is to be granted, the tenancy term will commence immediately upon the expiration of any introductory tenancy that had been granted.

Review Arrangements

The normal tenancy term will be 5 years and East Kent Housing will on behalf of the Council contact tenants who have fixed term tenancies no less than 6 months before a flexible tenancy is due to end and arrange to conduct a review of the tenancy

The review will take account of the following:

- The tenant's financial situation and whether or not they have a reasonable route to other housing options/do they have ability to find/afford alternative housing from their own resources? This aspect of the review will be consistent with the financial assessment that is applied to housing applications as set out in the Council's Allocations Policy.
- The make up of the household and any relevant personal factors, including their priorities and preferences
- The conduct of their tenancy
- The condition of the property
- Whether there is any current over or under occupation of the property
- Will there be any serious/adverse consequences for any member of the current tenant household in moving home?
- Whether the ending of a tenancy would be detrimental to community cohesion?

Following the review, the options that would be available available to the Council are:

- to offer a further flexible tenancy at the current property
- to offer a flexible tenancy at another property
- to allow the tenancy to become a secure tenancy, eg. where a tenant has reached retirement age
- to serve notice of the intention not to renew the tenancy and issue proceedings in the prescribed form, to terminate the flexible tenancy.

It is anticipated that in most cases a further 5 year tenancy will be granted except where one or more of the following apply:

- The tenant and their spouse (if applicable) have a gross income which would clearly enable them to purchase a property, which is reasonably suited to their needs, within Dover district. This would include Homebuy properties, where they are available
- A tenant or a member of their household has been convicted of a of an act of civil disturbance or other criminal activity;
- The Council needs to dispose of the property;
- The property is under- occupied by one bedroom or more (in such circumstances the Council will offer to help the household move to suitable, alternative social housing of an appropriate size);
- The property has been extensively adapted but for someone with a disability who no longer lives with the tenant (this allows the property to be released for someone who will benefit from the adaptations);
- Assets – the tenant or their spouse has assets or savings greater than the amount stipulated in the Council's Housing Allocations Scheme which would normally exclude someone from being granted a council tenancy.

The Council recognises that there may be circumstances in which it would be unreasonable to expect someone to move even if the above criteria applied, and will normally allow a tenancy to continue if:

- The tenant or a member of their household is suffering from a terminal illness;
- The tenant or a member of their household has a disability, verified by occupational therapy / community care assessments;
- The tenant has children attending a local school.
- The tenant is a foster carer and the tenancy needs to continue to enable them to fulfil this role.
- The tenant is a care leaver and still receiving support from social services because of this.

ENDING A TENANCY

The Council will through the housing management services provided by East Kent Housing seek to support tenants and help them maintain their tenancies but may take action to end tenancies where:

- There are breaches of tenancy conditions
- The tenancy is for a property which the Council needs possession of so that a redevelopment or regeneration scheme can proceed
- The tenancy has been obtained by fraud

Where the tenancy is for a fixed term a tenancy review will be carried out at least 6 months prior to the date on which the tenancy is due to end which will determine whether or not a further tenancy should be granted.

Termination of a flexible tenancy

If it is decided, as a result of the tenancy review, that a tenancy will not be renewed, written notice advising the tenant of such will be served by East Kent Housing. The notice will set out the reasons for the decision and, at the same time, notify the tenant of their right to appeal. Should a tenant appeal and fail to have the decision overturned, East Kent Housing will, on behalf of the Council, seek possession of the property.

Well in advance of a tenancy being terminated, the Council will work proactively with tenants who find themselves in this situation, and help them explore their options for alternative housing, which could include home ownership, a privately rented home or a more suitable affordable rented home. If the tenant refuses to move when the notice period expires, the normal possession procedure will take effect.

Appeals

If a flexible tenant disagrees with the decision reached by East Kent Housing to terminate their tenancy, they may use the following appeal process:

Stage 1

If the tenant disagrees with the reasons why their tenancy is to be ended they may request in writing that the decision be independently reviewed. This request should be requested no later than 14 days of the date of the review decision or the service of the notice to end the tenancy. An independent manager working for EKH who has not been involved in the decision making process will arrange to review the case and provide the details for the appellant within 5 days of the request being received.

Stage 2

Tenants who are dissatisfied with the outcome of the Stage 1 appeal and wish to pursue the matter further, can make a request for a formal review of the decision within 21 days of the notice being served. . In these cases the tenant will be invited to make a written submission stating the reasons for their request for a review and the appeal will be heard by a panel of officers of DDC. This panel will seek any further information it requires, including advice from other specialist advisers. The panel will notify the tenant of the outcome of the review including the reasons for their decision within 5 days of the appeal being heard.

Where a tenant wishes to appeal the termination of a tenancy and the notice period expires during the period of the appeal, the tenant will be permitted to stay in the property where this is not likely to lead to an unreasonable delay in the property being vacated. If the formal review upholds the decision, the tenant then has recourse to the county court.

SUCCESSION RIGHTS

There can only ever be one succession to a council tenancy. In situations where the original tenancy was a joint tenancy and one of the original tenants has died, the surviving joint tenant will have taken over the tenancy by operation of the doctrine of survivorship. The surviving tenant, is, in these circumstances treated as a successor such that there can be no further succession to the tenancy. The rules depend on the type of tenancy and when it started.

For tenancies that were granted before April 1st 2012 members of a deceased tenant's family may be able to take over the tenancy by succession where they are:

- the tenant's spouse or registered civil partner, as long as they were living together at the time of their death (or, if the tenancy is a demoted tenancy, for at least a year beforehand), or

- another family member (this includes cohabiting partners, children, parents, siblings and most other close relatives, but not foster children) and they were living with the deceased for at least a year before the tenant's death.

For secure council tenancies created after April 1st 2012 there is no right for a family member to succeed, unless the tenancy agreement allows for it.

The Council will use its discretion in deciding whether other close family members, as described above, should be granted a tenancy of the property or an alternative property to allow time for them to secure other accommodation. In exercising this discretion the Council will seek to ensure that the principles of its allocation policy are not undermined, e.g. by the allocation of a property to someone left in occupation who does not have as high a level of housing need as someone on the housing register.

RENTS

The council charges social rent on all of its tenancies. Rent levels are based on a combination of the value of the property and average earnings in Kent. Under government guidelines a 'target rent' has to be calculated up to the year 2012, with rents being adjusted annually until they reach the target rent.

The government's aim is for council rents to more closely match those charged by housing associations. As well as charging rent, there may be charges for services such as cleaning, caretaking, emergency alarm systems etc. These will be shown as a separate weekly charge for those homes which benefit from these services.

The Council has aspirations to develop new affordable homes itself and may decide to charge an affordable rent for these homes which will be set at 80% of the local market rent but capped at the Local Housing Allowance rate.

TENANCY FRAUD

DDC and EKH will investigate fully all reports of suspected tenancy fraud using all the enforcement tools available including civil and criminal remedies and the repossession of the property where the tenancy fraud is proven.

The Council will support EKH to actively pursue any potential tenancy fraud in cases including:

- Sub-letting
- Unauthorised assignment (including by mutual exchange)
- Wrongly claimed succession
- Right to buy fraud
- Obtaining a tenancy by false statement or knowingly withholding relevant information
- Not using the property as an only or principal home

In the case of successful criminal or civil action, the Council may actively publicise the result in order to deter further tenancy fraud.

POLICY REVIEW

This policy will be reviewed annually.