

# Tenant Policy

## Introduction

The Localism Act 2011 introduced a number of new flexibilities for local authorities to consider when deciding how to make best use of existing social housing and how to encourage the development of new affordable housing.

Alongside this there have also been changes to state benefit rules capping the maximum private rents for which benefit can be claimed, particularly for larger properties, as well as further changes to benefits in general set out in the Welfare Reform Act 2012.

As a consequence the Council decided to carry out early consultation with residents from August – October 2011 on how it would respond to the new flexibilities and the difficulties residents were facing due to the benefit changes. This Housing Changes review was reported to Cabinet in December 2011 together with a number of options and a direction of travel was agreed.

A set of new draft strategies and policies are now being developed for further consultation before being submitted for approval by Cabinet in December 2012.

The Council's draft Tenancy Strategy provides guidance to all social landlords in Harrow on our approach to:

- the introduction of flexible fixed term tenancies in Harrow;
- the introduction of Affordable Rents in Harrow

This Tenancy Policy sets out how the Council will introduce fixed term tenancies for new Council tenants from the date it is formally adopted. It will not apply to existing Council tenants. The policy is intended to protect residents who most need our support and recognises that the supply of housing at a low rent for life will never be sufficient to meet all of the priority housing needs in Harrow.

Most new tenants who can afford to do so will be expected to consider other housing options such as shared ownership or renting privately either in Harrow or elsewhere at the end of their fixed term tenancy.

## 1. Background

The Localism Act 2011 introduced flexible tenancies. These are fixed term renewable tenancies of not less than 2 years and can be offered to new tenants alongside secure or assured tenancies. A new approach to rents has also been introduced for housing association properties. New build homes and a proportion of relets can now charge higher rents of up to 80% of market rents.

Existing council and housing association tenants will not be affected by these changes unless they move to a new Affordable Rent property and will continue to enjoy their existing security of tenure and other terms and conditions including the

right to buy, succession rights and the right to exchange their tenancy with another secure tenant. The Act requires every local authority to produce a Tenancy Strategy setting out the expectations for all social landlords in the local area in relation to:

- The kinds of tenancies they grant
- The circumstances under which a particular type of tenancy will be granted
- The length of fixed term tenancies when these are granted
- The process for reviewing tenancies at the end of the fixed term and the circumstances under which a tenancy may or may not be renewed either in the same property or in a different property.

Every social landlord, including the Council is also required to have a Tenancy Policy. In addition to the above, the Tenancy Policy should contain:

- The way in which a tenant or prospective tenant may appeal about the length and/or type of fixed term tenancy offered and a decision not to renew the tenancy at the end of the fixed term
- How the need of those who are vulnerable by reason of age, disability or illness, and households with children are taken into account including through tenancies which provide a reasonable degree of stability
- The advice and assistance to be given to tenants to find alternative accommodation if a fixed term tenancy is not renewed.

This Tenancy Policy sets out how the Council will use flexible fixed term tenancies of 5 years for its own housing stock. It follows the principles widely consulted upon and set out in our Tenancy Strategy.

## **2. Context**

Harrow is an outer London borough with excellent transport links to central London, schools and access to attractive Green Belt and other open space. Along with other boroughs demand for housing is high and this is reflected in the high cost of housing both to buy and to rent privately. Unlike many other boroughs Harrow has a small supply of social housing at only 10% of the total housing stock. Twice as many people now live in the private rented sector (20%) whilst the vast majority (70%) own their homes.

As a result of state benefit changes and the effects of recession many more people have been coming to the Council for help with their housing over the past year. Due to the limited supply of social housing we help most people by assisting them to remain in their current homes or by encouraging and assisting them to find alternative housing in the private rented sector.

It is becoming increasingly important that our own small Council housing stock is used to its full potential to provide homes for those in the highest priority housing need. Whilst the introduction of fixed term tenancies is not likely to produce significant numbers of additional Council housing for re-let it will help us to target social housing at those who most need it and makes an important contribution alongside other initiatives such as those to encourage under-occupiers to downsize.

You can find more information on the facts and figures supporting this policy at:  
[http://www.harrow.gov.uk/download/downloads/id/1669/housing\\_evidence\\_base\\_september\\_2012](http://www.harrow.gov.uk/download/downloads/id/1669/housing_evidence_base_september_2012)

### 3. Objectives

This Tenancy Policy supports a number of our overarching objectives approved by Cabinet in December 2011 as follows:

**Deliver excellent services shaped and valued by our communities** – we have developed both strategy and policy in consultation with the community.

**Increase the supply of housing, including locally affordable housing and make best use of the existing social housing stock** – whilst we aim to build as much additional affordable housing in Harrow as we can we know this will never meet all needs and therefore our existing social housing stock must be targeted at those who most need it.

**Continue to tackle homelessness by improving access to and improving standards in the private rented sector** – the tenancy policy should support and complement initiatives that promote economically realistic housing options in the private sector.

**Enhanced housing options, promoting mobility and choice** – supporting households to consider the economically realistic housing option that best meets their current housing need and to think about what that might be in the future.

**Supporting sustainable and viable communities** – this policy should contribute to tenancy sustainment and the promotion of employment and training opportunities so that tenants are supported in adapting to the changing state benefits environment and the most vulnerable households are protected and supported in their home.

### 4. Who should be given which type of tenancy?

The Council is now intending to use introductory tenancies followed by flexible (fixed term) tenancies for the majority of new tenants. All new social housing tenants will be granted a 12 month introductory tenancy prior to transition to the next stage of tenancy.

Flexible tenancies will help us to ensure that our scarce Council housing stock is used in the best way to help those most in need. We have consulted on the best way to balance the need to make the best use of our stock whilst protecting those households who most need our support and whose circumstances are highly unlikely to change in the future and/or not to penalise existing secure tenants who may need to move.

The reason for this approach is that there may be situations where for example someone no longer needs a specialist or adapted property and the granting of a lifetime tenancy in all circumstances would prevent making best use of the property.

Automatic renewal for those falling within the criteria listed at 7a below, where the household continues to have the same needs will provide the necessary certainty of support to vulnerable households.

We will offer the following applicants life-time tenancies (preceded by an introductory tenancy where applicable):

- Existing social housing tenants with a life-time tenancy transferring within our stock or from another social housing provider;
- Older people moving into sheltered or extra care housing;
- Older people who have reached state retirement age and are moving into a one bed general needs property.

In all other circumstances a fixed term tenancy will be granted.

## **5. Minimum length of tenancy**

The council will initially offer a 12 month introductory tenancy followed by a minimum 5 year tenancy period in most circumstances where a fixed term tenancy is being granted. We consider that a 5 year tenancy offers reasonable security to most households and is considerably more secure than the average initial tenancy granted in the private sector.

In addition, we expect the majority of fixed term tenancies will be renewed where tenants' circumstances have not changed materially, for example the household income has not increased and there is no other more economically realistic affordable housing option and/or the household size still matches the size of property.

However, reviewing the tenancy prior to the end of the fixed term will enable tenants to consider what other housing options there are or might be in the future and to discuss other opportunities for example relating to employment/training initiatives.

The Localism Act allows the granting of shorter tenancies of no less than two years in exceptional circumstances. The council will not grant a shorter tenancy period in any circumstances other than those specified below:

- Where a shorter tenancy period is required to enable redevelopment to take place.

## **6. Succession**

In view of the limited amount of social housing in Harrow, the Council will only offer succession in the following circumstances for tenancies that started after 12 August 2013:

- 1 A spouse or civil partner of the opposite or same sex living at the tenancy address as their principal or main home at the time of the tenant's death; or

- 2 Where a family member<sup>1</sup> has been part of the household for at least 5 years or where a carer (who is not a family member or employed as the carer) gave up accommodation to care for a minimum of 12 months, the property meets their housing needs and no alternative economically realistic housing option exists.

All other provisions relating to succession are contained in Resident Services' Succession Policy.

## **7. End of fixed term reviews and principles for renewal of tenancy**

### **Tenancy reviews**

The tenancy review is primarily an opportunity for the Council and tenant to consider if the current home still best meets the tenant's needs and how it might be possible to meet future aspirations, for example

- home ownership by discussing low cost home ownership options available savings for deposits etc
- sign-posting to advice and guidance to non-working households on national and local employment and training initiatives.

We will aim to carry out the review at least 9 months before the tenancy is due to come to an end to allow sufficient time for a tenant to find alternative housing if the tenancy is not renewed and alternative accommodation is not to be provided.

There are five options available at the end of the flexible tenancy term:

1. Offer a further flexible tenancy at the current property
2. Offer a lifetime tenancy at the current property<sup>2</sup>
3. Offer a further flexible tenancy at another property
4. Offer a lifetime tenancy of another property, for example sheltered accommodation
5. Not offer a further tenancy on expiry of the current flexible tenancy

Where the conditions of tenancy have been complied with and the tenant's circumstances remain similar to when the tenancy was originally granted, the Council will generally expect to grant a further tenancy. However, there should not be a presumption that the tenancy will be renewed.

### **Refusal to comply with the renewal process**

Where a tenant refuses to co-operate fully with the review process such as failing to provide information to allow a review of the household's circumstances or fails to contact the Council at least seven months prior to the date the tenancy ends, the

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<sup>1</sup> Family member as defined by Housing Act 1985 section 113

<sup>2</sup> This will be limited to tenants over pension age living in a one bed general needs property

Council may proceed with the review process based on the available information in the tenant's absence.

### **Advice and guidance**

The Review will be carried out by trained housing officers (from all appropriate sections within the Housing Division) and include offering appropriate pro-active advice and assistance to find alternative accommodation. Options for alternative housing could include home ownership either outright or through the various central or local government initiatives, a privately rented home either in Harrow or elsewhere or a more suitable affordable rented home either in Harrow or elsewhere.

Appropriate advice on employment and training initiatives will be provided to non-working households including young adults who form part of the household (through referrals to appropriate Council departments or external agencies).

Where a tenancy review is being carried out with a vulnerable household, such as a care leaver or other vulnerable adult, the tenant will be recommended to seek support through an advocate, support worker or other appropriate agency.

### **7a Renewal to a further flexible or life-time tenancy**

Based on our evidence we expect the majority of Council tenancies to be renewed. All new tenancies granted on renewal, with the exception of life-time tenancies, will be granted as fixed term tenancies and are expected to be renewed if the tenant's household circumstances are unchanged or are similar to when they were originally housed. Automatic renewal will take place in the circumstances set out at points 1-4 below:

1. The tenants have reached state retirement age and are living in a 1 bedroom general needs property. In such circumstances tenants will be offered a life-time tenancy
2. The tenant(s), their spouse or partner or a dependent child is disabled validated by the award of disability benefits
3. The tenant(s), their spouse or partner or a dependent child have a severe learning disability or severe enduring mental health need validated by the relevant officer in the Council's People directorate.
4. The tenant was a Care Leaver and is still receiving support from the Council's Leaving Care Team.

However, in addition to the circumstances set out above, the principles for renewal listed at 7b will also be considered in all cases where there is no automatic renewal. This may mean that in some circumstances a renewal tenancy may be offered for an alternative property of a suitable size or that despite no material changes in the tenant's circumstances, no further tenancy will be offered due to the tenancy not being conducted in a satisfactory matter.

## **7b Principles for tenancy renewal**

The Council will consider the following principles when determining whether to renew the tenancy:

### **Suitability of property**

1. The property should meet the current housing needs of the tenant and their household. Examples where the property is no longer suitable e.g if the property is under-occupied by one room or more (this includes a bedroom or second reception room) and an alternative suitably sized property is being offered
2. Although overcrowded properties do not suit the current needs' of the tenant and the household, where all other criteria have been met, the tenancy should be renewed at the current address. In such circumstances the tenant may be offered advice and information on other housing solutions that may offer appropriately sized accommodation.
3. The property has been extensively adapted for someone with a disability who no longer lives with the tenant and an alternative property is being offered. In these circumstances it would be reasonable not to renew the tenancy for the current address so that the adapted property can be let to someone who needs it.
4. Other considerations to be taken into account with regard to the suitability of alternative accommodation might include specific individual circumstances and access to family support networks.

### **Conduct of tenancy**

The Council will usually be minded to not renew the tenancy in cases where:

1. The tenant has breached the terms of their tenancy and failed to reach and maintain an agreement with the Council to remedy this breach. For example there are rent arrears and the tenant has not maintained an agreement or court order.
2. There has been serious and persistent documented anti-social behaviour committed by the tenant, a member of their household or visitor.
3. The tenant or a member of the household has a conviction for civil disturbance carried out in the locality of Harrow or other criminal activity such as housing fraud.
4. There is a possession order, including a suspended order, in force in relation to the relevant tenancy.

Cases will be determined on their individual merits taking account of issues such as: tenant engagement, compliance with court orders or other interventions, household composition, intentionality and costs likely to accrue to the Council.

### **Financial considerations**

The review will consider whether the tenant's household income is sufficient to enable the tenant and their household to find other suitable accommodation either by

moving into intermediate housing (low cost home ownership or sub-market rent), private rented or buying on the open market.

The council has adopted the financial limits set out in the Mayor of London's strategy for access to shared-ownership<sup>3</sup> and intermediate housing products. This limit is currently set at £90,000 gross per annum combined income for the tenant and partner. Tenants with income above these levels will not be eligible for a renewal of tenancy.

This has the advantage of being regularly updated offering London-wide financial limits that will allow tenants to access properties across London thereby providing maximum mobility.

### **7c Renewal in exceptional circumstances**

We recognise there may be circumstances where it might be considered unreasonable to expect someone to move even if one of the above criteria apply and we will consider allowing a tenancy to continue if:

- The tenant or a member of their household is suffering from a terminal illness
- The tenant has children attending a local school at key stages of education, specifically in year 10/11 or year 12/13 and no economically realistic alternative housing is available locally
- The tenant is a foster carer and the tenancy needs to continue to enable them to fulfil this role
- The tenant is participating in a Tenancy Sustainment Programme or a training and employment programme and moving at this stage would prevent the tenant from completing the programme
- The tenant makes an active and positive contribution to their local community through, for example, volunteering for an approved organisation on a regular basis.

### **7d Maximum length of term on renewal**

When deciding on the length of term for a renewal tenancy, the council offers tenancies of the following lengths:

- Households comprised solely of adults who have attained pension age during the initial grant of tenancy living in a one-bed general needs property should be offered a life-time tenancy.
- All other households will be offered a further five year fixed term tenancy.

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<sup>3</sup> <https://www.london.gov.uk/what-we-do/housing-and-land/homes-londoners/buying-affordable-home#acc-i-51719>



## **8. Review (or appeals) against flexible tenancy decisions**

There are two stages at which an applicant can seek a review of any decision relating to the flexible tenancy.

### **Review of offer to grant a flexible tenancy**

Following the service of the notice stating that on the coming to an end of the introductory tenancy it will become a flexible tenancy, the applicant can request a review of the Council's decision about the length of the period of the flexible tenancy. A review can only be requested on the basis that the term of the flexible tenancy does not accord with the Council's policy.

These reviews are likely to be very small in number as the Council will in the main be granting 5 year flexible tenancies.

### **Review of decision not to renew the flexible tenancy**

Reviews are carried out in line with the Review Procedure as stated in the Flexible Tenancy Renewal Procedure.

Following the tenancy review and after the provision of appropriate advice and assistance as set out above, the Council will serve Notice where it is not going to renew a tenancy at the existing tenancy address at least six months before possession of the property is sought. The Council will endeavour to serve the Notice at least six months prior to the end of the tenancy ("the First Notice").

The Notice will state that the Council does not propose to grant a new tenancy on the expiry of the flexible tenancy, the reasons why the tenancy is not being renewed and explain the review process.

The Council will also serve a Notice giving the tenant not less than two months' notice that the Council requires possession of the property and the date after which court proceedings may be begun ("the Second Notice"). In most cases the Notice will be served at least 2 months before the tenancy is due to end. If the tenant refuses to move when the notice period set out in the Second Notice expires a court order will be applied for and the usual eviction process followed.


Where the Council has reached a decision that a further tenancy should not be awarded and has complied with any review requests that decision will stand, the Council will not revisit that decision prior to instigating legal proceedings.

## **9. Equalities**

We have used the Equalities Impact Assessment completed for the Tenancy Strategy to inform this Policy which follows the principles endorsed through the consultation process.

## 10. Reviewing the Tenancy Policy

This policy will be monitored and reviewed annually. Revisions, such as to the income and savings caps, will be authorised by the Portfolio Holder for Housing.

Review date	<b>October 2019</b> or sooner if required by changes to legislation or management practice
Revisions	Changes to document in Section 7 to uprate the financial thresholds for renewal of a fixed term tenancy
Signature	
Name	Karen Connell, Head of Resident Services
Date	12 November 2018