



LONDON BOROUGH OF HARROW

# Tenancy Strategy & Policy

Approved on 21 January 2021 by Cabinet.

# HARROW COUNCIL TENANCY STRATEGY & POLICY 2021-2026

## TENANCY STRATEGY 2021 – 2026

### 1 Introduction

1.1 There have been many changes in the national housing landscape since Harrow Council published its previous Tenancy Strategy in 2012.

1.2 In 2012 there was an overriding government view that social housing tenants should not benefit from greater tenancy security than tenants in the private sector thereby introducing the use of discretionary fixed-term tenancies for social housing landlords.

1.3 In 2016 the then government enacted the Housing and Planning Act 2016 with the intention of phasing out the award of lifetime tenancies. Social tenants were only to be offered fixed-term tenancies but with the proviso that landlords could offer tenancies lasting up to the 19<sup>th</sup> birthday of the youngest occupant. This would have affected new and existing tenants who moved home (with a few exceptions).

1.4 These provisions were not implemented and the national climate regarding social housing changed dramatically following the fire at Grenfell Tower in 2017.

1.5 In the social housing green paper, A New Deal for Social Housing 2018, the government stated it would not implement compulsory fixed-term tenancies; while in the private sector there have been moves to require landlords to offer longer tenancies and to remove “no fault” evictions.

1.6 The Secure Tenancies (Victims of Domestic Abuse) Act 2018 although not yet in force recognised that where a secure (lifetime) tenant was offered a new tenancy when moving due to domestic abuse, they should retain their existing security of tenure and not be offered a fixed-term tenancy.

1.7 The social housing sector was subject to a compulsory 1% rent reduction for four years from April 2016 – March 2020, impacting on many areas of social housing including regeneration and planned improvements programmes.

1.8 Universal Credit (UC) has been rolled out across the whole of the UK and is now the primary state benefit for those of working age on a low income or out of work. UC brings its own administrative issues for social landlords, the default position is that tenants are responsible for paying rent from their monthly UC payment, differing from housing benefit which was usually paid directly to a tenant's rent account. Tenants have an individual responsibility for reporting all changes directly to the DWP including rent increases. The impact of these requirements on rent

arrears or on social landlords' income collection, particularly following yearly rent increases, will be monitored.

1.9 In the social housing white paper, The Charter For Social Housing Residents (2020), the government sets out what every social housing resident should be able to expect in relation to safety, landlord performance, complaints, being treated with respect, having their voice heard, the quality of their home and neighbourhood, and access to home ownership.

## **2 Objectives**

2.1 This strategy supports our overarching objectives within the Smarter Housing Plan 2020

- Provide smarter housing services
- Highly valued by our communities
- Delivered by people inspired to achieve

2.2 We want our strategy to contribute to the continuation of mixed and balanced communities and prevent unnecessary churn and upheaval.

## **3 Strategic Overview**

3.1 Harrow Council recognises that it may have limited influence over decisions by other social landlords operating within Harrow, many of whom operate across several local authority areas. The changes in national outlook have led some social landlords to withdraw from offering fixed-term tenancies and to return to only offering lifetime tenancies. However, Harrow Council expects social landlords to have regard to this Tenancy Strategy so that tenants and applicants across the borough understand the types of tenancy available.

3.2 The Localism Act 2011 requires every Council to publish a Tenant Strategy which contains provisions on expectations for all social landlords in the local area in relation to:

- a) The types of tenancies that will be granted
- b) The length of fixed-term tenancies when these are granted
- c) The circumstances under which a particular type of tenancy will be granted
- d) 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.
- e) All social landlords are required to set out the way in which a tenant or prospective tenant may seek a review of:
  - the length of the fixed-term
  - the type of tenancy offered
  - a decision not to grant another tenancy on the expiry of the fixed term.

## **4 Strategy statement**

4.1 Harrow Council expects all social housing providers to produce a Tenancy Policy which addresses the items listed above. The Council sets out its strategy regarding the above matters and expects social housing providers operating in the borough to have regard to these strategic views.

### **a) What type of tenancies will be granted?**

The Council expects that social landlords will offer either fixed-term tenancies or lifetime time tenancies (secure or assured) and that these tenancies may be preceded by a 12-month introductory or probationary tenancy.

### **b) If fixed-term tenancies are offered how long will they last?**

Although permissible by law, the Council does not support the granting of flexible fixed-term tenancies of less than five years. The Council would expect that in most instances, fixed-term tenancies, where awarded, will be for a five-year period or longer, or up to the 19<sup>th</sup> birthday of the youngest occupant if longer than five years.

### **c) Under what circumstances will a particular tenancy be granted?**

- Where social landlords offer an introductory or probationary tenancy, it should be offered to all new social housing tenants
- Existing social housing tenants should not lose their security of tenure or other tenancy rights following a move to a different social housing tenancy where there has been no break in tenancy
- Social landlords may wish to offer a fixed-term tenancy to existing or new tenants moving to a new build affordable rent property
- Social landlords may wish to offer a mix of fixed-term and lifetime tenancies depending on various circumstances, such as
  - lifetime tenancies to some categories of tenant, such as people over pension age or people with an enduring physical or mental health disability
  - fixed-term tenancies to tenants moving to certain types or size of home.

### **d) What process will be used for reviewing tenancies at the end of the fixed-term?**

- Social landlords must have a clear policy for reviewing a tenancy prior to the end of the fixed term. This should include details of any financial limits that

may prevent the award of a further tenancy, and how a landlord will decide if a property continues to meet a household's needs.

- The tenancy review should primarily be an opportunity for both landlord and tenant to consider if the current home still best meets a tenant's needs and how it might be possible to meet a tenant's future housing aspirations.
- Where the review is being carried out with a vulnerable tenant, we expect social landlords to take all practicable steps to ensure that the tenant can fully participate in the review hearing.
- We would expect the review to take place 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.

**e) Under what circumstances will a tenancy not be renewed either in the same property or in a different property?**

- Social landlords must have a clear policy for reviewing a tenancy prior to the end of the fixed-term. This should include details of any financial limits that will prevent the award of a further tenancy, how a landlord will decide if a property continues to meet a household's needs and any other matters that may be taken into account.
- Given the Council's intention to prevent homelessness wherever possible and to ensure that appropriate economically realistic housing options are available to people in housing need it would be counter productive for landlords not to renew tenancies unless they have carried out the review thoroughly including offering appropriate pro-active advice and assistance to find alternative accommodation.
- Although it is clear in the Localism Act 2011 that it is the responsibility of the landlord to provide the advice and assistance, the Council can provide a comprehensive service locally to all applicants for affordable housing including advice and assistance on finding suitable private rented accommodation.
- As the Council retains the statutory responsibility to provide housing for homeless households in priority need, we want to ensure that a robust approach is taken to the provision of advice and assistance where a tenancy is not renewed and we would ask all social landlords in Harrow to:
  - notify the Council when a tenancy is not to be renewed and of the agreed alternative housing arrangements
  - if not making use of the Council's advice and assistance service (which is our preferred option) to provide details of the advice and assistance provided.

4.2 All social landlords are required to set out the way in which a tenant or prospective tenant may seek a review of:

- the length of the fixed term

- the type of tenancy offered
- a decision not to grant another tenancy on the expiry of the fixed term.

4.3 The Council expects social landlords to ensure their Tenancy policies contain the following information:

- How and to whom review requests should be made, including timescales for making the request
- How any review panel will be comprised
- Give timescales for administering the review
- Be accessible and widely publicised, such as published on websites, available in housing offices, local community buildings

## 5 The Tenant Standard

The Regulatory Framework for Social Housing in England from April 2012 sets out the specific standards that Registered Providers (RPs) must meet and takes account of the amendments made as a result of the Localism Act 2011. The Tenant Standard requires RPs to let their homes in a transparent and efficient way and to take account of the housing needs and aspirations of tenants and potential tenants. They must demonstrate how their lettings:

- Make the best use of available housing
- Are compatible with the purpose of the housing
- Contribute to local authorities' strategic housing function and sustainable communities

RP's are also expected to co-operate with local authorities' strategic housing function and their duty to meet identified Local housing needs. This includes assistance with local authorities' homelessness duties, and through meeting obligations in nomination agreements.

As Harrow Council owns and manages its own housing stock, we will produce our own Tenancy Policy which will follow the principles set out in this document.

## 6 Complaints

All social landlords are required to set out the way in which a tenant or prospective tenant can escalate a complaint if they are dissatisfied with the response. This should include information on:

- Any internal complaints' procedure
- Housing Ombudsman
- Judicial Review

- Where to seek independent legal advice

The social housing white paper, The Charter for Social Housing Residents (2020), sets out what every social housing resident should be able to expect in relation to complaints. The expectation is that social housing tenants will have their complaints dealt with promptly and fairly, with access to a strong ombudsman who will give them swift and fair redress when needed. This requirement will be developed further by the Regulator of Social Housing.

## **7 Equalities**

A range of stakeholders were consulted during the development of this Tenancy Strategy and an EqlA was completed.

# HARROW COUNCIL TENANCY POLICY (2021 – 2026)

## 1 Introduction

1.1 As Harrow Council is a social landlord with its own housing stock, we are required to have a Tenancy Policy. In this policy, Resident Services will address the issues in the Tenancy Strategy and how as a social landlord, Harrow Council will address these.

1.2 Harrow Council has taken the decision to revert to offering secure lifetime tenancies in all circumstances for its own social housing stock, after consultation with stakeholders. Where a tenancy is offered to a new social housing tenant or a person who has previously held a social housing tenancy but with a break in tenure, the secure tenancy will be preceded by a 12-month Introductory tenancy.

1.3 All existing fixed-term tenancies will be transitioned to secure lifetime tenancies following the successful completion of the introductory tenancy.

1.4 As well as addressing issues regarding tenancy and tenure type, this Tenancy Policy also sets out how Resident Services deals with applications for succession following the change in law brought about by the Localism Act 2011.

## 2 Policy statement

2.1 As a social landlord, we have regard to the Council's strategic view and set out below how we have adopted these expectations into our Tenancy Policy.

### **What type of tenancies will be granted?**

As a stock retaining council, for its own stock, Harrow Council will offer 12-month introductory tenancies to all new social housing tenants. Following a successful introductory tenancy, all tenancies will transition to a secure (lifetime) tenancy. Existing social housing tenants transferring/moving from organisations that offer fixed-term tenancies, will be awarded a secure (lifetime) tenancy.

### **If fixed term tenancies are offered how long will they last?**

We will no longer be offering fixed-term tenancies.

### **Under what circumstances will a particular tenancy be granted?**

- Where a tenancy is offered to a new social housing tenant or a person who has previously held a social housing tenancy but with a break in tenure, the secure tenancy will be preceded by a 12-month Introductory tenancy. Existing social housing tenants will be awarded a secure (lifetime) tenancy from the outset of the tenancy.

- Existing Introductory tenants who move during the 12-month introductory period will be awarded an introductory tenancy lasting for the remainder of the introductory period

### **What process will be used for reviewing tenancies at the end of the fixed term?**

We will no longer be offering fixed-term tenancies.

### **Under what circumstances will a tenancy not be renewed either in the same property or in a different property?**

We will no longer be offering fixed-term tenancies.

## **3 Reviews**

3.1 Social landlords are required to set out the way in which a tenant or prospective tenant may seek a review of the length of the fixed term, the type of tenancy offered and a decision not to grant another tenancy on the expiry of the fixed term. This information is not required as we no longer offer fixed-term tenancies.

3.2 Under current legislation there is no right for a tenant to ask for a formal review of the decision to award an Introductory tenancy. However, where a tenant believes that the Council has incorrectly awarded an Introductory tenancy, the tenant should write to the Resident Services Operations Manager at PO Box 65, Civic Centre, Station Road, Harrow, HA1 2XG or email to [housing.residentservices@harrow.gov.uk](mailto:housing.residentservices@harrow.gov.uk). Such a request should be made within 14 days of the date of signing the tenancy agreement. Such requests will only be considered where the council has awarded an introductory tenancy in contravention of this Policy.

Any such request will be considered by a Resident Services Operations Manager having regard to previous tenure and other information provided by the tenant during the housing application process.

3.3 Requirements for review hearings where an Introductory tenancy is to be extended or ended can be found in Resident Services' Introductory tenancy procedure. Requirement on review hearings prior to seeking possession on absolute grounds for anti-social behaviour can be found in the Anti-social Policy and Procedure.

## **4 Succession and survivorship**

The law regarding succession was altered by the Localism Act 2011 providing different rules for succession dependant on the start date of the tenancy. Harrow Council's position on succession is set out below. Whenever the tenancy starts, the law only allows one succession.

#### 4.1 Survivorship by joint tenants

Survivorship has some different rules from those relating to succession by someone who is not a joint tenant. Joint tenants have a right of survivorship following the death of a joint tenant until there is only one surviving tenant. Survivorship applies in all tenure types. There is no residency criteria for survivorship to take place. Therefore, a non-resident joint tenant will survive the tenancy and remain a tenant. There is no right of succession after a tenancy has been “survived”. Issues relating to non-residency on survivorship are dealt with by other housing management methods.

#### 4.2 Tenancies that started prior to 1 April 2012

Tenancies that started prior to 1 April 2012 have succession rights as follows:

- Succession to a partner or spouse
- Succession to a family member living with the tenant for the preceding 12 months (not necessarily at the tenancy address). Family members are defined at section 113 Housing Act 1985.

#### 4.3 Tenancies that started after 1 April 2012

4.3.1 Tenancies that started after 1 April 2012 have succession rights by law only to a partner or spouse.

4.3.2 Harrow Council allows succession to a family member (as defined by s113 Housing Act 1985) who has lived with the tenant as a member of the household for a minimum of 5 years consecutively (not necessarily at the tenancy address).

4.3.3 Harrow Council allows succession to a full-time carer (who does not qualify as a family member) and who gave up accommodation to provide care to the deceased tenant for a minimum of 12 months prior to death and where no alternative economically realistic housing option exists. There is no right of succession to a carer employed by the deceased tenant.

#### 4.4 All cases of succession

Successful applications for succession by family members or live-in carers irrespective of the tenancy start date will be obliged to move to accommodation that meets the needs of the successor household.

#### 4.5 Unsuccessful requests for succession

All requests for “succession” for those who fall outside the above categories will be considered on an individual basis in line with the Council’s Discretionary Tenancy Policy.

## 4.6 Introductory and demoted tenancy successions

Succession in cases of Introductory, extended Introductory or demoted tenancies will be granted in line with the current law and further details can be found in the Council's succession policy.

## 5 Publicity

5.1 The Tenancy Strategy and Policy is readily available. It can be found on line at [www.harrow.gov.uk](http://www.harrow.gov.uk) and a printed copy may be requested by emailing [housing.residentservices@harrow.gov.uk](mailto:housing.residentservices@harrow.gov.uk)

## 6 Complaints

6.1 If a tenant or housing applicant is dissatisfied with the service they have received, the Council operates a two-tier complaints' procedure. Further information can be found at [www.harrow.gov.uk](http://www.harrow.gov.uk) and search for complaints.

### 6.2 Designated Person scheme

If a tenant has not been able to resolve their complaint through the Council's complaints' procedure, they can take their complaint to a designated person, such as an MP or local councillor.

### 6.3 The Housing Ombudsman

If a tenant has been unable to resolve the complaint through either of the above, they can escalate their complaint to the Housing Ombudsman. For further information, go to <https://www.housing-ombudsman.org.uk>.

### 6.4 Judicial review

Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body. Judicial review is a challenge to the way in which a decision has been made, rather than the rights and wrongs of the conclusion reached. This is a complex area of law and independent legal assistance is likely to be essential.

### 6.5 Independent legal advice

Tenants or applicants may seek independent legal advice by contacting, among others:

- Citizens Advice
- Harrow Law Centre
- Shelter
- Solicitors specialising in housing law