

Lancaster City Council  
Health and Housing Services  
Council Housing Tenancy Policy

March 2013  
Version1.0

Date Approved:	
Review Date	

## 1. Introduction

- 1.1 The idea of a tenancy policy results from a wider package of social housing reforms, which include the introduction of fixed term (flexible) tenancies and affordable rent, changes to allocations and homelessness and promotion of increased mobility for social tenants. These reforms are being implemented through the Localism Act 2011 and changes to social housing regulations.

## 2. Context

- 2.1 From April 2012 the Homes and Community Agency replaced the Tenants Services Authority as the social housing regulator in England. At this time an updated regulatory framework was introduced including a revised set of regulatory standards. The Tenure element of the revised tenancy standard includes a statutory requirement for all social housing providers to publish a clear and accessible Tenancy Policy.
- 2.2 It should be noted that the requirement for social housing providers to publish a tenancy policy is different to the statutory requirement, under the Localism Act 2011, for all local authorities to develop a tenancy strategy by January 2013.
- 2.3 This Tenancy Policy has been written with due regard to the Lancaster District Tenancy Strategy 2012 to ensure consistency with the objectives for the management of social rented homes within the Lancaster district as a whole.

## 3. Aims and Objectives

- 3.1 The aim of this Tenancy Policy is to communicate effectively the Council's approach to tenancy management, in the light of the reforms being implemented through the Localism Act 2011 and the 'Regulatory Framework for Social Housing in England from April 2012.'

## 4. Tenancy Types

- 4.1. **Introductory Tenancies** - Most new tenants to the Council, for both general needs and sheltered accommodation, who have not immediately beforehand held a secure tenancy or the housing association equivalent of an assured tenancy, will be offered an introductory tenancy for a period of one year. Before the start of the introductory tenancy, tenants will be told which kind of tenancy (secure tenancy or flexible tenancy) they will be granted at the end of the introductory period.
- 4.2. During an introductory tenancy a tenant has less security and fewer rights. For example:

- Their home is at higher risk of repossession if they do not keep to the tenancy agreement
  - They cannot buy their home
  - They cannot exchange their home
  - They cannot carry out improvements to their home
- 4.3. An introductory tenancy will automatically become a secure tenancy after 12 months unless either the trial period has been extended or the Council has commenced possession proceedings for the recovery of the property due to a breach of the tenancy within the 12 month period.
- 4.4. To end a tenancy, the Council must serve a notice of termination. This is a notice that tells the tenant that the Council will be asking the county court for an immediate possession order. To extend the trial period, the Council must serve a notice telling the tenant that the trial period is to be extended.
- 4.5. Introductory tenants have the right to request an internal review of a decision to extend the trial period or of a decision to end the tenancy.
- 4.6. **Secure Tenancies** – Most Council tenants will have a secure tenancy. Secure tenants have the right to live in their home indefinitely as long as they continue to comply with the requirements of the tenancy agreement.
- 4.7. Secure tenants also have other rights above and beyond those of an introductory tenant, such as:
- The right to buy
  - The right to carry out improvements
  - The right to exchange their home
  - The right to take in lodgers and sub-let part of their home
- 4.8. The Council can only evict a secure tenant following the correct procedure and by obtaining a court order.
- 4.9. **Demoted Tenancies** – A secure tenancy can be downgraded to a demoted tenancy, which is similar to an introductory tenancy. With a demoted tenancy the tenant has fewer rights and less protection from eviction than a secure tenancy.
- 4.10. The court can demote a secure tenancy if a tenant (or someone who lives with a tenant, or visits a tenant regularly) has behaved in an anti-social manner or caused nuisance in their area, threatened to do so, or used the home for illegal activities such as drug dealing.
- 4.11. If the Council wants to downgrade a tenancy in this way the Council has to obtain a court order. A demoted tenancy will normally last for 12 months after which the tenant will become a secure tenant again

providing they have not broken the terms of the tenancy agreement and the Council has not had to ask the Court for possession of the property.

4.12. The tenant has the right to request an internal review of a decision to demote the secure tenancy.

4.13. **Flexible Tenancies** – are tenancies fixed for a specific period. This is usually for a period of at least 5 years, though in some cases it may be for between 2 and 5 years.

4.14. The Council does not envisage introducing flexible tenancies at this point in time. Should the Council decide to introduce flexible tenancies this Tenancy Policy will be reviewed to include the circumstances and the terms of the flexible tenancies being adopted.

4.15. Tenants in flexible tenancies will have similar rights to secure tenants. A flexible tenancy can still have an introductory period.

4.16. If the Council had flexible tenancies, at the end of the fixed period it could decide to:

- Offer another fixed-term tenancy
- Offer a secure tenancy
- Not to renew the tenancy

4.17. If the Council decided not to renew a flexible tenancy then it must explain its reasons and give the tenant a chance to challenge the decision.

4.18. A flexible tenant can:

- Rent out rooms (although the tenant can't sub-let the whole property)
- Buy the property through the Right to Buy scheme
- Swap home with another council or housing association tenant (with the Council's permission)
- Transfer the tenancy to someone else in some circumstances

4.19. **Family Intervention Tenancies** – In some circumstances the Council may offer family intervention tenancies to existing tenants who have been evicted as a result of anti-social behaviour, or could be at risk of eviction because of it. They normally last between 6 months and a year and include an agreement about behaviour expected and the involvement of support services.

4.20. A family intervention tenancy can only be used if a possession order (an order for eviction) has been made against the tenant, or a possession order could have been made if the person had been a tenant. To create a family intervention tenancy, notice must be served setting out why a family intervention tenancy is being offered.

4.21. If the Council wants to end a family intervention tenancy it must serve a notice of intent. The tenant has the right to request an internal review of a decision to end the family intervention tenancy.

4.22. **Joint/Sole Tenancies** - Any of the tenancy types listed above can be joint or sole tenancies. It is the Council's policy to create joint tenancies wherever possible. A joint tenancy is one tenancy with 2, 3 or 4 joint tenants who each have responsibility for meeting its terms. Joint tenancies are common for married couples or established partners, or close family members. A breach of tenancy by one joint tenant is the responsibility of all.

4.23. A sole tenancy is one where the tenancy is in the name of one person who has sole responsibility for meeting its terms.

## 5. Tenancy Sustainment

5.1. There are a number of ways that the Council will help tenants maintain their tenancy successfully. Where problems arise or tenants breach the terms of their tenancy agreement we will intervene quickly and provide assistance and advice as appropriate.

5.2. Whatever the nature of the problem the Council aims to identify support needs both prior to and during tenancies and work closely with support services to promote tenancy sustainment.

5.3. **Estate Management Team** – All tenants have a named Estate Manager who is available to give advice and assistance with tenancy related issues. All new tenants are provided with clear information about the terms of their tenancy and the consequences of failing to keep to those terms.

5.4. **Income Management Team** – All tenants have a named Income Management Officer who is available to give advice and assistance on all rent related matters. If a tenant goes into rent arrears they are offered re-payment arrangements based on their income and expenditure, and their Income Management Officer will provide basic debt advice prior to making referrals to other agencies for support and financial assistance.

5.5. **Supported Housing** - Residents in sheltered housing have a needs and risk assessment at the time they take up a tenancy. An individual support plan is also put in place to identifying the support needed and to help them continue living in their own home. Support plans are reviewed annually.

## 6. Preventing Evictions

6.1. The Council will ensure that all avenues to preventing eviction have been exhausted before taking steps to commence possession proceedings,

and work closely with support agencies to prevent this happening. This includes obtaining assistance from Social Services where appropriate, who are notified of any pending evictions to enable their involvement as and when they see fit.

- 6.2. The Council will carry out home visits and make efforts to maintain regular contact with tenants who may be at risk of eviction whether as a result of anti-social behaviour or rent arrears. We will use early intervention as a method to resolve problems before they become unmanageable.
- 6.3. The Council will provide written advice as provided for in the Council's Rent Arrears Handbook regarding every stage of the rent arrears process. We shall also provide written advice in the case of anti-social behaviour cases in accordance with the Council's Tackling Anti-Social Behaviour booklet and the Council's Anti-Social Behaviour Policy Statement regarding its approach to anti-social behaviour. Tenants at risk of eviction are advised of their right to appeal against an eviction, and how to go about doing this.

## **7. Tackling Tenancy Fraud**

- 7.1. In order to join the Lancaster City Council Housing register and apply for housing, applicants must provide proof of their circumstances (including proof of ID). Further checks are made at the point where an applicant receives an offer of accommodation.
- 7.2. For current tenants we carry out a programme of tenancy audits to identify and combat tenancy fraud, by confirming that council tenancies are legally occupied and that the information held about tenants is correct and up to date.

## **8. Succession Rights**

- 8.1. Following the death of a sole tenant, a spouse or civil partner can succeed to the tenancy as long as they were living in the property at the time of the tenant's death. If the tenant did not have a spouse or civil partner a family member may succeed to the tenancy, providing they have been living at the property for at least 12 months before the tenant's death.
- 8.2. For a family member to succeed they must be a close relative. This is defined as a:

- parent/grandparent
- child/grandchild
- brother/sister
- uncle/aunt
- nephew/niece
- common law husband/wife
- step-relative

- 8.3 If more than one family member claims succession rights the family must decide who succeeds. If the family cannot decide the Council will make the decision based on the available relevant evidence in accordance with relevant legalisation.
- 8.4 If a family member succeeds to a property which is bigger than they need we may offer them an alternative property. Where a partner has succeeded to the tenancy they will be able to stay in the property.
- 8.5 A tenancy cannot be succeeded to if the tenant:
- Had succeeded to the tenancy themselves (post 1981)
  - Had the tenancy assigned to them
  - Lived alone
  - Was a joint tenant (the remaining tenant having taken over the tenancy)
  - Was a sole tenant after a joint tenant had died
- 8.6 If a sole tenant dies and no-one has a legal right to succeed to the tenancy, the Council will consider sympathetically an application for the tenancy from a member of the household who had a long term commitment to the home prior to the tenant's death. The Council may offer them alternative accommodation where the property is bigger than they need.

## **9. Assignments**

- 9.1. When an assignment of tenancy takes place, a tenant gives their interest in a tenancy to another person. The tenancy itself continues on the same basis and the new tenant takes on all the rights and responsibilities of the tenancy.
- 9.2. Introductory and Secure tenancies can be assigned either to someone who could have succeeded to the tenancy if that tenant had died (see 8 Succession Rights), or by a court order in accordance with Section 91 of the Housing Act 1985.
- 9.3. Secure tenants also have the right to exchange with a tenant from the Council, or from another Register Provider of Social Housing (see 10 Mutual Exchanges). Introductory tenants do not have the right to exchange, but may request permission to do so.

## **10. Mutual Exchange**

- 10.1. Tenants of Lancaster City Council can apply to exchange their home with a tenant from the Council, or from another Registered Provider of

Social Housing. The Council will not normally refuse permission unless:

- One of the homes would be overcrowded or (substantially) under occupied
- The Council are taking legal action to take possession of the home of any of the tenants involved
- The exchange would mean that a home designated for special needs, or with design features for the physically disabled would not be occupied by someone requiring those facilities

10.2. Before an exchange can proceed there may be conditions to be fulfilled. For example:

- No rent arrears
- Property and garden must be in good condition
- Any improvements or alterations made without written agreement of the council must be put right

10.3. The Council provide an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for matching properties. This is a nationwide system and so allows tenants to access matching properties in other areas of the country. It is available via the choice based lettings website at [www.idealchoicetohomes.co.uk](http://www.idealchoicetohomes.co.uk).

## **11. Rent**

11.1. The Council currently charges social rent on all tenancies. The level of this is not dependent on local rents in the private sector and is set by the Council each year. Social rent is generally lower than the market rent a private landlord may charge.

11.2. The rent arrears policy is to ensure rent is collected on time, and that when a tenant falls into rent arrears they are given appropriate assistance to clear rent arrears at an early stage (see 5.4, above).

## **12. Anti-Social Behaviour**

12.1. The Council has a comprehensive approach to tackling anti-social behaviour, which involves working together with other agencies, voluntary groups and residents, and includes:

- Prevention
- Early intervention
- Rehabilitation



- 12.2. In response to anti-social behaviour the Council will acknowledge and grade reports quickly, and then investigate thoroughly and professionally. Responses will, as necessary, move from advice, conciliation, mediation and support to legal action by Lancaster City Council on behalf of victims of anti-social behaviour as appropriate.
- 12.3. Complaints will not be pre-judged. The Council will impartially investigate complaints received and shall respond by taking whatever reasonable and proportionate action (if any) it considers appropriate in the circumstances.
- 12.4. Detailed guidance on the way the Council responds to anti-social behaviour can be found in the council housing Anti Social Behaviour Policy Statement.

### **13. Review**

- 13.1. This Tenancy Policy will be reviewed every three years unless circumstances require an earlier review.

## **Contact Information**

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