



Lancaster City Council

Housing and Property: Council Housing

TENANCY POLICY

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1. Introduction and Policy Objectives

- 1.1. Within the Consumer Standards as set out by the Regulator of Social Housing, the Tenancy Standard sets out a clear expectation that registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud.
- 1.2. The objective of this Tenancy Policy is to effectively communicate the Council's approach, in particular in relation to granting tenancies (including the types of tenancies granted), and to the management of existing tenancies.

2. Scope

- 2.1. This policy applies to all current tenants and sets out the principles that will be applied in the case of all future tenancies.

3. Legislation and Regulatory Standards

- 3.1. The Localism Act 2011 placed a statutory duty on Local Authorities to produce a Tenancy Strategy which sets out the matters to which the Council and other social landlords in its district are to have regard in formulating policies relating to:
 - The kinds of tenancies they grant.
 - The circumstances in which they will grant a tenancy of a particular kind.
 - Where they grant fixed-term tenancies, the lengths of the terms; and
 - The circumstances in which they will grant a further tenancy, on the coming to an end of an existing tenancy.
- 3.2. This Tenancy Policy has due regard to, and is in support of, Lancaster City Council's Tenancy Strategy.
- 3.3. More broadly, this Policy is set within the framework provided by other relevant legislation, in particular the:
 - Housing Act 1985
 - Housing Act 1996
 - Equality Act 2010
- 3.4. The Council must also meet the regulatory standards set by the Regulator of Social Housing using its powers under the Housing and Regeneration Act 2008.

4. Tenancy Types

Introductory Tenancies

- 4.1. Most tenants who are new to the Council, who have not immediately beforehand held a secure tenancy or an assured tenancy (the housing association equivalent), will be offered an introductory tenancy for a trial period of one year. This applies in the case of both General Needs and Independent Living accommodation. Before the start of the introductory tenancy tenants are told that, should they successfully complete the introductory period, they will automatically be granted a secure tenancy.
- 4.2. During an introductory tenancy a tenant has less security and fewer rights. For example:
 - **It is easier to evict an introductory tenant:** if they do not keep to the tenancy agreement, and the Council decides to seek possession, it must follow the correct procedure and act fairly and proportionately, but it does not have to prove a ground for possession
 - They cannot buy their home
 - They cannot assign the tenancy (unless pursuant to a court order, or to a potential successor), or exchange their home
 - They cannot sublet or take in a lodger
 - They cannot carry out improvements
- 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 by then commenced possession proceedings for the recovery of the property, due to a breach of the tenancy.
- 4.4. To extend the trial period, the Council must serve a notice telling the tenant that the trial period is to be extended.
- 4.5. Before asking the Court to end a tenancy, the Council must serve a notice of proceedings for possession. This tells the tenant that the Council will be asking the Court to make a possession order. It also sets out the reasons why.
- 4.6. Introductory tenants have the right to request an internal review of a decision to extend the trial period, or to apply for an order to end the tenancy.

Secure Tenancies

- 4.7. Most Council tenants will have a secure tenancy. Secure tenants have the right to live in their home indefinitely as long as they comply with the requirements of their tenancy agreement.
- 4.8. Secure tenants also have other rights above and beyond those of an introductory tenant, such as the right, in certain circumstances, to:

- Buy their home
- Carry out improvements
- Assign or exchange
- Sub-let part of their home or take in lodgers

4.9. The Council can only evict a secure tenant by following the correct procedure and obtaining a court order, based on a ground (or grounds) for possession.

Demoted Tenancies

4.10. 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. For example, a demoted tenancy cannot be assigned unless it is part of family law proceedings.

A demoted tenant does not have the right to buy their property during the demoted period. They also have less protection from eviction than a secure tenant.

4.11. The Court can demote a secure tenancy if a tenant (or someone living with, or visiting the tenant) has behaved in an anti-social manner, used the home for illegal activities such as drug dealing, or in either case threatened to do so if satisfied that it is reasonable to make an order. To rely on this ground, the Council only needs to establish that the behaviour caused *or is capable of causing* nuisance or annoyance to any person, and directly or indirectly relates to or affect its housing management functions

4.12. A demoted tenancy will normally last for 12 months, after which the tenant will become a secure tenant again, provided 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.

4.13. The tenant has the right to request an internal review of a decision to apply for a demotion order.

Non-secure tenancies

4.14. Non-Secure Tenancies are granted by the Council to applicants to whom the Council has a duty to provide interim accommodation, under the terms of the homelessness legislation.

Licences

4.15. The Council issue temporary licences to allow occupation under specific circumstances e.g. where tenants are required to temporarily vacate their home to allow intrusive maintenance works to be carried out.

Leases

4.16. The Council assists in the provision of specialist supported accommodation and currently leases two single multi-occupancy dwellings to a partner provider to facilitate this. The issue of these leases is subject to the Council's corporate decision-making process. The leases are granted for a fixed term, and the arrangement is reviewed periodically to ensure delivery of the Council's corporate objectives.

Joint/Sole Tenancies

4.17. Any of the tenancy types listed above can be granted as joint or sole tenancies.

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

4.19. A joint tenancy is one tenancy with 2, 3 or 4 joint tenants who each have responsibility for complying with 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. It is the Council's policy to facilitate the creation of joint tenancies wherever possible.

5. Tenancy Sustainment

5.1. The Council will seek opportunities to promote the sustainment and success of tenancies, both prior to and during the tenancy. These include (but are not limited to):

- An assessment of circumstances at the housing application stage, to identify risk factors or support needs prior to an offer of tenancy being made.
- A tenancy health check, carried out in relation to all new tenancies, to identify any risk factors or support needs early in the life of the tenancy.
- Practical support in connection with income maximisation, including assistance with regard to benefit claims.
- Provision of an energy support service, to assist tenants with affordability and other energy-related issues.
- Provision of a Housing Support service for tenants with complex needs.
- An in-house housing adaptations service, which works closely with health and social care colleagues to deliver a range of adaptations to promote tenancy sustainment through independence, in Council homes.
- The offer of service chargeable furniture packages to support the creation of homes.
- Good quality, practical, published information available to tenants and applicants to ensure the uptake of services and support as needed.
- An 'eyes and ears wide open' approach to all tenant contact, to ensure a proactive service-wide approach to the risk of tenancy failure. This includes, for new tenancies, a post-

allocation visit within the first 6 weeks of tenancy commencement and a planned tenancy visit after 6 months. A programme of periodic tenancy audits for all tenancies is also in place.

- 5.2. The teams across Council Housing work co-operatively to promote tenancy sustainment. All tenants have a named Housing Officer who is available to give advice and assistance with tenancy related issues, and a named Income Management Officer for rent, debt and other financial issues.
- 5.3. Residents in Independent Living have a needs and risk assessment carried out at the time they take up a tenancy. An individual support plan is also put in place to identify the support needed and to help them continue living in their own home. Support plans are reviewed annually.
- 5.4. Residents who are at risk of tenancy failure are referred to the Housing Support team. These officers work with households, supporting them and building their engagement to achieve positive outcomes, and improving their health and wellbeing through targeted support.

6. Preventing Evictions

- 6.1. A proactive, supportive, and customer- focussed approach ensures that legal action is avoided wherever possible. However, the Council is committed to taking such action (including possession proceedings) where reasonable and proportionate, in the circumstances of a particular case.
- 6.2. The Council will work closely with support agencies. This includes working with the Police, health services, community mental health team, voluntary support organisations, other Council departments, and advocates.
- 6.3. 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, and will use the full range of tools and powers available to address these issues. Early intervention will be prioritised to resolve problems before they become unmanageable.
- 6.4. The Council will provide clear advice at all stages of the rent arrears process, including written advice as provided for in the Council's Rent Arrears Handbook. Case management will include advice tailored to the individual and their specific circumstances.
- 6.5. All anti-social behaviour cases are risk-assessed at the point of reporting to ensure the appropriate level of response. Urgent cases (including those relating to Hate Crime or Domestic Violence) will receive a 24 hour response. The Council will provide clear advice in all ASB cases in accordance with the Council's Anti-Social Behaviour Policy.
- 6.6. The Council takes a twin-track approach to perpetrators of anti-social behaviour, ensuring that any underlying issues are identified and, where appropriate, support is provided to perpetrators alongside the appropriate enforcement action.

- 6.7. In cases where legal action is contemplated the Council will follow the Pre-Action Protocol for Possession Claims by Social Landlords published by the Ministry of Justice.

7. Tackling Tenancy Fraud

- 7.1. The Council will carry out measures prior to and during the application process for allocating Council tenancies. For example:
- The Council is a participating organisation in the National Fraud Initiative (NFI)
 - In line with the Lancaster City Council Housing Allocation Policy, when applying to join the Housing Register applicants must provide proof of ID and proof of eligibility.
 - Housing applicants must make a declaration to confirm that all the information they have provided is correct, and consent to the Council making further enquiries concerning their eligibility for housing. This may include checks with the Home Office, Land Registry, Police, Probation Services, Social Care and other Council departments.
- 7.2. For current Council tenants, periodic checks take place during the life of the tenancy to identify and address tenancy fraud, by confirming that council tenancies are legally occupied, and that the information held about tenants is correct and up to date. For example:
- Six-week post-allocation visits
 - Six-month introductory tenancy visits
 - Tenancy audits through planned programmes, or triggered in response to notification of a change in circumstances or other information e.g. reports of suspected tenancy fraud, for health and safety reasons, through safeguarding or vulnerability reports, etc.

8. Succession Rights

Joint Tenancies

- 8.1. When a joint tenant dies, the surviving joint tenant inherits the tenancy by the common law rule of survivorship. Survivorship is not a statutory succession but counts as one when determining if there is a further right to succeed to a tenancy.
- 8.2. The tenancy always passes to the surviving joint tenant(s). Another person cannot succeed to a joint tenancy, even if they would qualify to succeed to a sole tenancy.

Sole Tenancies

- 8.3. Following the death of a sole tenant the tenancy can pass to a person qualified to inherit it. This is a statutory succession and only one person can succeed to a tenancy.
- 8.4. **Secure tenancy - began before 1st April 2012.** A spouse or civil partner can succeed to the tenancy as long as they were occupying the property at the time of the tenant's death as their only or principal home. Where there is no spouse or civil partner a cohabitee or member of the tenant's family succeeds if they have been living at the property for at least 12 months before the tenant's death as their only or principal home.
- 8.5. **Secure or introductory tenancy - began on or after 1st April 2012.** A spouse, civil partner or cohabitee can succeed if they occupied the property as their only or principal home at the time of the tenant's death. Other family members do not have automatic succession rights, however the Council will consider requests from family members who occupy the property as their only or principal home and have lived there for at least 12 months before the tenant's death.
- 8.6. **Demoted tenancy.** Right to succeed applies to any family (as defined) member (including spouse/civil partner/co-habitee) subject to requirement that only or principal home *and* 12 months' residence.
- 8.7. 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
 - Step-relative
- 8.8. If more than one spouse, civil partner, cohabitee or family member claims succession rights they must agree between them who succeeds. If they cannot decide the Council will make the decision based on the available relevant evidence in accordance with relevant legalisation.
- 8.9. If a family member succeeds to a property which is bigger than they need the Council may offer an alternative property. Where a spouse, civil partner or cohabitee has succeeded to the tenancy, they will be able to stay in the property.
- 8.10. Usually there can only be one succession to a Council tenancy (though the Council will consider requests for additional successions under certain circumstances). A tenancy cannot normally be succeeded to if the tenant:
- Had succeeded to the tenancy themselves
 - Had the tenancy assigned to them
 - Lived alone

- Is the sole remaining tenant, following the death of a joint tenant, and has acquired the tenancy by survivorship

8.11. 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. Assignment

- 9.1. When an assignment of tenancy takes place, a tenant's interest in the tenancy is transferred 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. A secure or introductory tenancy can be assigned to someone who would have been entitled to succeed to the tenancy if the tenant had died (see section 8, 'Succession Rights').
- 9.3. Secure tenants also have the right to exchange with another tenant with the Council or another social landlord. (See section 10, 'Mutual Exchange'.) Introductory tenants do not have the right to exchange but may request permission to do so.
- 9.4. A court may also make an order in certain family proceedings for a secure or introductory tenancy to be assigned.

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 social landlord. The tenants involved in the proposed 'swap' must obtain their respective landlord's consent. 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 for possession of one or other property
 - The exchange would mean that a home designated for special needs, or with design features for those with a physical disability, 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 online 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 allows applicants to access matching properties in other areas of the country. It is available via the choice-based lettings website: www.idealchoicehomes.co.uk.

11. Review

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

