



TENANCY POLICY

Housing and Community Service

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NEW FOREST DISTRICT COUNCIL TENANCY POLICY

1. Introduction

- 1.1 The council is required by regulation to publish a tenancy policy which outlines the council's approach to tenancy management. This policy has regard to the council's Tenancy Strategy and aims to deliver effective tenancy management of the council's own stock.

The supply of affordable housing in the district is limited and it is important that the stock is used effectively to its full potential to provide homes for those in housing need and who need assistance from the council.

2. Objectives of the tenancy policy

- 2.1 This policy is intended to meet the regulatory requirements of the Homes and Communities Agency and will set out in a clear and accessible way:

- the types of tenancy the council will grant and in which circumstances
- the length of fixed term tenancies and the circumstances where shorter fixed term tenancies may be offered
- the circumstances in which the council may or may not grant a further fixed term after a tenancy has come to an end
- the appeals processes on tenancy decisions
- the council's approach to requests to succeed to tenancies
- how the council will assist in sustaining tenancies

- 2.2 This objective of the council's strategy is to ensure council stock is used as effectively as possible to provide homes for New Forest residents who are unable to secure their own accommodation. This can be achieved if the council is able to assist more people to move from council accommodation to alternative accommodation, e.g. into home ownership or private rented sector.

This policy aims to ensure that:

- the right people are living in the right property, on the right type of tenancy
- tenants will be encouraged to move to more suitable accommodation if their existing home becomes too big for their needs or circumstances change
- the council will support tenants to sustain their tenancies
- the council will tackle breaches of tenancy
- the council will encourage tenants to be involved
- the council will tackle tenancy fraud

3. Tenure

The types of tenancy granted by the Council

- 3.1 Existing secure periodic tenants transferring to another council property will normally be granted a **secure tenancy** of their new home.
- 3.2 All new tenants of the council will normally be granted an introductory tenancy. This will usually be followed by a flexible tenancy, referred to as a fixed term tenancy.
- 3.3 Where temporary housing is being let to homeless households or to prevent homelessness or for supported housing projects, licenses, non-secure tenancies or occupation agreements will normally be offered depending on the type of accommodation. These could be granted to people moving into short term accommodation such as hostels.
- 3.4 Our Tenancy Agreement will be written in plain English, in a style easily understood by tenants. The agreement will clearly set out the rights and obligations of the tenant and the landlord. Tenants will be given a copy of their Tenancy Agreement at the start of the tenancy and will have the terms explained to them at the sign-up meeting.

4 Secure tenancy

- 4.1 Most existing tenants have a secure tenancy. Secure tenants have a number of rights, including:
 - The right of succession
 - The right to take in lodgers and sub-let part of the property
 - The right to exchange their property
 - The right to information and be consulted and involved
 - The right to make improvements to their home (as long as permission is granted)
 - The right to compensation for improvements
 - The right to repair
 - The right to buy in certain circumstances
- 4.2 Where an existing secure tenant moves to another social rented property, they will normally be granted an equivalent tenancy at their new property. However, any tenancy granted will be in accordance with our policy or the new landlord's policy.
- 4.3 Should the council decide to end this type of tenancy it must obtain a Possession Order from the court.

5 Non-secure tenancies, licenses and Occupation Agreements

5.1 A non-secure tenancy, license or occupation agreements are usually given to occupants living in temporary accommodation. These occupants do not have the same security of tenure or rights as a secure tenant. These occupants have:

- No right to right to buy
- No right to mutual exchange
- No right to assign the tenancy (except by a court order)
- No right to sublet any part of the accommodation or take lodgers
- No right to make major improvements to the property

5.2 In some cases the council will have to get a Possession Order from the court to end this type of tenancy/occupation.

6 Introductory Tenancies

6.1 Overview

The council will grant all new tenants a one year introductory tenancy. In most cases, this will be followed by a flexible tenancy for a minimum of two years and a maximum of ten years, but usually five years. The council will explain and notify the tenant in writing of the tenancy length and type prior to the introductory tenancy commencing.

In some exceptional circumstances the council may not grant an Introductory Tenancy and grant a fixed term tenancy or secure tenancy. This may apply, for example when the tenant or a family member requires the property to be adapted due to a disability.

The council will make it clear to tenants from the outset that their tenancy is not permanent.

6.2 Those who will not be granted an Introductory Tenancy are:

- Secure/Assured tenants already protected by law
- People of pensionable age in appropriate sized accommodation
- Tenants from another Registered Provider who move to a council property by way of mutual exchange
- Applicants offered a Private Sector leased property, hostel and non-secure accommodation (see 5.1)

6.3 An introductory tenancy has clear tenancy conditions stating that tenants must pay their rent on time, be considerate to others living around them, look after their property and keep to all other tenancy conditions.

An introductory tenancy has:

- No right to right to buy (although the introductory tenancy year will count towards any future right to buy discount)
- No right to mutual exchange
- No right to assign the tenancy (except by a court order)
- No right to sublet any part of the accommodation or take lodgers
- No right to make major improvements to the property

6.4 An introductory tenancy will be for 12 months. This period can be extended for a further period of 6 months if the council is not satisfied that the tenant has met the conditions of the tenancy. The council will notify the tenant of the extension at the 9 month stage. The reasons for extending may include:

- Rent arrears or irregular payments
- Breaches of tenancy conditions
- Indications that the tenant is having difficulty managing the tenancy, even with support

During this period the tenant is expected to work with the council to resolve the breaches.

An Introductory Tenancy can only be extended once.

The council can instruct a court to end the introductory tenancy if the tenant breaks any of the terms of the tenancy agreement. The reasons for ending a tenancy may include:

- High level of rent arrears
- Anti-social behaviour
- Significant breaches of tenancy conditions
- Indications that the tenant is unable to manage the tenancy, even with support

7 Flexible Tenancies

7.1 The use of flexible tenancies provides the council an opportunity to manage council stock and address under-occupation by enabling the council to move tenants to smaller accommodation. The council will support tenants who are under-occupying in finding smaller accommodation.

The council will make it clear to tenants from the outset that their tenancy is not permanent.

Tenants granted a flexible tenancy will enjoy many of the same rights as secure tenants. This includes:

- The right of succession
- The right to take in lodgers and sub-let part of the property
- The right to exchange their property

- The right to information and be consulted and involved
- The right to make improvements to their home if agreed with the council
- The right to repair
- The right to buy in certain circumstances

7.2 Length of tenancies

Following the introductory tenancy, a fixed term tenancy is granted. Where a fixed term tenancy is granted, in most cases this will be for a minimum of two years and a maximum of ten years, but usually five years. This period provides an appropriate balance between tenants having stability and feeling settled in an area and the need to make best use of housing stock.

7.3 The council may grant a fixed term tenancy for a period of less than 5 years where a shorter fixed term tenancy may be appropriate. This includes:

- Where a tenant's housing need or bedroom requirement is expected to be limited to shorter than a 5 year period
- Where an existing fixed term tenancy is coming to an end and where there is uncertainty over the tenant's circumstances in the near future
- Where an existing fixed term tenancy is coming to an end and the tenant will be re-housed into alternative housing and there is likely to be a significant period of time before re-housing can be arranged
- Where there is uncertainty over the tenant's ability to manage a tenancy satisfactorily or to engage with support services to ensure they manage their tenancy in a satisfactory manner
- Where the tenant has a history of anti-social or other unacceptable behaviour and there is a risk that the unacceptable behaviour may continue

The council may grant a tenancy for a longer period of up to 10 years where it considers circumstances are very unlikely to change, for example where the property has been adapted due to disability or when considering the age of household occupants. This decision will be made by an officer, taking into consideration all of the circumstances of the tenant and their household.

7.4 Succession

Succession of a tenancy will only be granted in accordance with legislation. Where there is a statutory right to succeed to an introductory tenancy or a fixed term tenancy, the succession will only be for the remainder of the tenancy.

7.5 Tenancy Reviews

Where a fixed term tenancy is due to end the council will write to the tenant around 9 months prior to the end of the tenancy to undertake a review of their housing need. The council will notify the tenant of the decision of the review, no later than 6 months prior to the fixed term ending. If it is decided, as a

result of the review, that a further tenancy will not be granted the council will notify the tenant in writing. The notice will contain the reasons for the decision and how to appeal. Should a tenant appeal and fail to have the decision overturned, the council will be able to seek possession of the property.

- 7.6 The council will work with tenants throughout the review process to ensure tenants comply with requests for information. This will ensure the council has sufficient information to make a decision.

Where a tenant is vulnerable the council will make every effort to obtain the information needed to make a decision. This may include working with external agencies. Vulnerability may include tenants with mental health issues, who are of old age or who have a serious illness.

Where a tenant fails to comply with requests for information and makes no contact with the council, the council will make a decision on the information available and in accordance with the relevant sections of this policy and may make the decision not to grant a new fixed term tenancy.

7.7 Review criteria

The tenancy review will consider the needs of tenants, their finances, their behaviour and the pressures on social housing. A new tenancy will not be granted:

- Where households are under or over-occupying their home,
- Where the household no longer has a housing need or that the household has the resources to secure and maintain housing in the private sector
- Where there have been serious and/or persistent breaches of tenancy conditions and failure to reach or maintain agreement with the council to remedy this breach
- Where the tenant is in rent arrears. Exceptions can be made for tenants in receipt of benefits where payments are in arrears or because there has been a recent change in circumstances, or where the tenant has made a payment agreement with the council and is adhering to this payment plan
- Where the tenant of a property no longer has needs and the property would be better suited to another occupier with higher needs
- Where the property has been extensively adapted for someone with a disability who no longer lives with the tenant
- Where the council intends to dispose or refurbish the property

There may be some circumstances in which it is unreasonable to expect a tenant to move, even if any of the above criteria apply. This includes:

- The tenant or a member of their household is terminally ill
- The tenant or a member of their household has a severe disability
- The tenant is a foster carer and the tenancy needs to continue to enable the tenant to fulfil this role.

7.8 Where a new tenancy is granted it will normally be for a further fixed term period and the council will notify the tenant of the decision.

7.9 Termination of a fixed term tenancy

Where the council makes the decision to end a fixed term tenancy, the council will notify the tenant at least 6 months prior to the tenancy ending. The notice will give the reasons for the decision and information on the tenant's right of appeal.

The council will give a minimum of 2 months' notice in writing that it is seeking possession of the property. This will usually be served once the appeal time has lapsed and before the tenancy end date.

In advance of the tenancy ending the council will work with the tenant to assist and advise them on their housing options. This may include a meeting with the tenant, where they can also bring a friend, support worker or representative.

On expiry of the fixed term if the property has not been vacated the council will apply to the courts for vacant possession.

The council may end a fixed term tenancy before it expires by obtaining legal possession due to a breach of tenancy and/or any of the grounds in Schedule 2 of the Housing Act 1985.

7.10 Appeals

If a tenant disagrees with the decision about the length of the fixed term tenancy or their Housing review, the tenant can request a review which must be received within 21 days of the decision notice. The council may allow a longer period in exceptional circumstances. The appeal will be considered by a Senior Manager who will notify the tenant within 15 days of the decision.

The tenant can appeal the decision not to grant a new fixed term tenancy. The request must be received within 21 days of the decision notifying the tenant of the council's decision, stating the reasons for their request and whether the tenant requires an oral hearing. The 21 days cannot be extended.

If there is an oral hearing, the council will give at least 5 days' notice. If the tenant does not want an oral hearing they will notify the council and the tenant will have 5 days to provide a written submission explaining the reasons for the appeal. A Senior Manager from the council will formally review the decision and notify the tenant, in writing, of the decision.

8 Joint tenancies

8.1 The council will normally only grant a joint tenancy to married couples, civil partners or to couples where there is satisfactory evidence that they have

been living together continuously for a period of at least 12 months.

Both parties of the joint tenancy will occupy the property as their main home and should not normally have an interest in any other property.

8.2 The council will grant a cross-generation joint tenancy (e.g. to a parent and adult child) or joint tenancies where the applicants are not a couple only in exceptional circumstances, for example to protect the occupation rights of a vulnerable person.

8.3 Where an existing sole tenant requests a joint tenancy, the council will explain the full implications to the tenant in writing prior to there being any agreement to grant a joint tenancy. Only one change in tenancy is permitted. The council will not usually grant a new joint tenancy if:

- The existing sole tenant has rent arrears or another Housing debt
- The existing sole tenant has breached the terms of their tenancy agreement
- The tenancy is already a joint tenancy
- The proposed joint tenant has a debt with the council
- The proposed joint tenant is subject to immigration control
- There is evidence that the proposed joint tenant does not intend to occupy the property as their main or only home
- The new tenant is a joint tenant elsewhere

This list is not exhaustive and the council will consider all relevant circumstances

8.4 Where one or more existing joint tenants requests to end the joint tenancy, for example due to a relationship breakdown, the council will not automatically grant a tenancy to the remaining occupant of the property. The council will consider fully the needs of the household, their behaviour and conduct. The council will not usually grant a new sole tenancy if:

- The tenant who is requesting the sole tenancy would not be eligible for housing under the council's Allocation Scheme
- There are rent arrears
- There are breaches of the tenancy agreement
- The tenant is under occupying the property

This list is not exhaustive and the council will consider all the relevant circumstances

Where the council grants a new tenancy, this will usually be a fixed term tenancy, even if a secure tenancy was previously held.

9 Succession

9.1 Succession will only be granted in accordance with statutory rights. Statutory rights to succession will differ depending on when the tenancy commenced. Succession can only occur once, unless the tenancy agreement allows for

more than one succession. Therefore, if a tenant is granted a succession, they cannot normally pass on the tenancy again.

The council will keep tenancy records to ensure succession rights are correctly applied.

- 9.2 Depending on when the tenancy is granted will affect the succession rights to a tenancy.

Tenancy granted before 1 April 2012:

When a tenant passes away the tenancy can pass to a husband, wife or civil partner if they were living in the property at the time of death. If there is no partner the tenancy can pass onto a family member who was living in the property at the time of death, and has been for the previous 12 months. Family members include parents, grandparents, brother, sister, child, uncle, aunt, nephew or niece.

Tenancy granted after 1 April 2012:

A tenancy can only pass onto a husband, wife or civil partner, or a person who lived with the tenant as if they were their husband, wife or civil partner.

On the death of a tenant, where opportunities exist to re-house successor tenants into more suitably-sized properties, then transfers will normally take place. Consideration will, however, be given to the specific needs of the household as there may be reasons why a transfer is not suitable or possible.

- 9.3 Where there is more than one successor, or a dispute, if the household cannot agree who should be the tenant the council will make a decision.
- 9.4 Where a tenant does not have a statutory right to succeed a tenancy, the council may grant a tenancy to them in exceptional circumstances, either at the existing property or another property. In making a decision the council will undertake a full review of the household needs and circumstances. The council will consider the following factors:

- The age of the person
- The length of time they have lived in the property
- The size of their family and property
- Medical needs of the household
- The financial circumstances of the household
- The Social and welfare needs
- The need and demand for the property

- 9.5 Where the tenancy is a fixed term tenancy any succession will be for the remainder of the tenancy term.
- 9.6 Where a tenant occupies a property with a non-secure tenancy, occupation agreement or license there are no rights to succession.

9.7 Where a tenant is not entitled to succeed the tenancy the council will refer the tenant to the Housing Options team for advice and information. Should the person remain in the property, the council will instigate legal proceedings to regain possession of the property.

10 Reviews and appeals about tenancy issues

10.1 Reviews and appeals regarding fixed term tenancies are included in Section 7.

10.2 A tenant may request a review of a decision regarding tenancy matters or successions. Any request should be made in writing, or by e-mail, and the council will normally respond within 10 working days.

10.3 A senior member of staff will respond to the review or appeal, clearly stating the reasons for the decision.

11 Sustaining tenancies

11.1 The council will make every reasonable effort to support tenants to sustain their tenancy, that they do not get into rent arrears or carry out acts of Anti-Social Behaviour. The majority of tenants will simply require the provision of information and advice, however, some tenants may require more support.

11.2 Council staff are trained to identify vulnerable tenants and will ensure assistance is given and with the tenants consent, referrals are made to relevant organisations where appropriate. The council will work with tenants, and agencies, to enable them to sustain their tenancy.

11.3 When the council meets with new tenants to sign the tenancy agreement, the council will discuss the following:

- The terms of the tenancy agreement, including their rights and responsibilities and the review process for Introductory Tenancies
- Paying the rent, including frequency of payments methods, and accessing benefits
- Checking if the household has any support needs
- Highlighting opportunities to become involved through Resident Involvement
- Explaining how to report maintenance or repairs

11.4 Following the commencement of an introductory tenancy, the council will visit the tenant, at home, usually within 6 weeks of the tenancy starting. This visit will ensure the tenant is meeting their obligations and to discuss any issues or concerns from either party. Further visits will be undertaken at 3 and 9 months and tenants are expected to keep appointments.

11.5 The council will monitor tenancies and work with tenants. The council will signpost tenants to other services where appropriate including Citizens Advice, Social Services, Benefits Office etc. The council will also work with the police

and other agencies to ensure that problems are investigated and appropriate action taken.

- 11.6 Where there is a risk to life, supported by the Police and other agencies, the council can consider granting a Management move. This is reserved for the most severe cases and the council will make one offer of suitable alternative accommodation, creating significant distance between their current and new property.

Where there is an immediate need, the council will consider housing a household in Bed and Breakfast accommodation.

- 11.7 Where a tenant is under-occupying their property and as a result rent arrears are accruing, or the rent is not affordable, an Under-Occupancy transfer can be considered by the council. Offers of alternative accommodation could be made anywhere within the district but consideration will be given to preferred areas.

12 Advice and information

- 12.1 The council is committed to providing good quality advice and information to tenants so that they can maintain their tenancy and understand their rights, responsibilities, obligations and how to access services.
- 12.2 For every new tenancy, the council will conduct a sign-up at the property being offered, see 11.3.
- 12.3 Throughout the tenancy, the council will provide information and give advice where requested. This includes the council's magazine for tenants which highlight the importance of contacting the council as soon as possible if the tenant is having difficulty paying their rent.
- 12.4 Where a fixed term tenancy is ending the tenant will be referred to our Housing Options team to discuss their options.
- 12.5 The council will publish this policy on the council's website.

13 Tenant ending a tenancy

- 13.1 A tenant can give notice to end their tenancy by letter, e-mail, telephone or in person. The council will start the notice period from the date notice is given and send the tenant forms for completion and return. The tenant must complete the necessary forms for the tenancy to end.
- 13.2 Tenants must give at least 28 days' notice to end their tenancy. The council may consider a shorter period in exceptional circumstances.
- 13.3 When a tenant gives notice or dies the council will visit the property. The Council will:
- Check the condition of the property and garden

- Check if the rent account has no arrears
- Ensure the tenants understands that the property must be left in a clean state and that all rubbish and personal belongings must be cleared (unless agreed with the council)
- Obtain meter readings
- Request a forwarding address and contact details
- Determine any recharges incurred and due for payment

13.4 If there are rent arrears the council will inform the tenant or the estate of the amount due to pay before the tenancy ends.

14 Tenancy fraud

14.1 It is important that people occupying our properties should be living in them. The council is committed to preventing, identifying and tackling housing fraud. This includes allegations of non-occupancy, fraudulent requests for succession where the council will investigate, or when allocating properties where the council will undertake thorough verification of applications.

14.2 The council will fully investigate reports of alleged fraud in conjunction with the council's Audit team and work with other teams within the council. Where appropriate, the council will prosecute tenants who have committed fraud.

14.3 The council is part of the National Fraud Initiative which compares information and there is close liaison between services, including Revenues, Benefits and Estate Management. Where tenancy fraud is identified the council may publicise the outcome to deter further tenancy fraud.

15 Performance monitoring

15.1 The council will monitor

- The number and type of each tenancy
- What happens at the end of a flexible tenancy
- The reason for ending a flexible tenancy
- The number and reason of appeals

The council will use this information to review procedures and policies where appropriate.

16 Policy review

16.1 The council will review this policy every five years or earlier if new legislation or guidance is published.