

# End of Fixed term Tenancy Policy



## Purpose and Scope

The purpose of this policy is to provide clarity for customers, staff and local authority partners on the circumstances in which we will, or will not offer another tenancy at the end of a fixed term tenancy in general needs social and affordable rent housing, and our commitments for providing housing options advice and assistance.

In line with the Council's Tenancy Strategy, Brentwood offers fixed term tenancies for properties because social housing is particularly in short supply and high demand, so we want to ensure it remains available for those who need it.

This policy does not apply to decisions on whether to offer a further tenancy following an introductory tenancy. The Council's policy for introductory tenancies covers this area of activity.

## Policy Objectives

This policy aims to:

- Provide a fair and reasonable assessment for tenants to have their circumstances and housing needs evaluated before making a decision on their tenancy.
- Make the best use of our stock by ensuring tenants needs are considered against the demand for larger housing in the local area.

In particular the policy is intended to provide information on:

- The circumstances in which we may or may not grant another fixed term tenancy in the same or another property.
- How we will take account of the needs of vulnerable households.
- How the tenant/ prospective tenant can appeal against the decision not to grant another tenancy on the expiry of the fixed term.
- The advice and assistance we will give to tenants on finding alternative accommodation if it is decided not to grant another tenancy.

## Policy Statement

The Council is committed to providing tenants with secure and well maintained homes that are suitable for their needs. In the current social housing environment where homes are in high demand, fixed term tenancies will help the Council to increase the number of people we are able to house and make the best possible use of our stock by ensuring our homes are occupied by those who really need them.

We expect our tenants to honour their tenancy obligations, pay the rent, look after the property and respect their neighbours and neighbourhood. If at the end of the fixed term a tenant has met their obligations and their financial, family and social circumstances have not significantly changed, we would normally expect to offer a further fixed term tenancy.

All tenants will receive written confirmation of the outcome of their end of tenancy review no less than 6 months before the end of the fixed term.

There is no limit to the number of times a further fixed term tenancy can be offered provided there is a clear demonstrable need for the size and type of property, or the property is unlikely to have

sufficient demand to re-let it to a household with greater need, and the tenant can demonstrate they can afford to pay the rent.

If it is determined that a tenant no longer qualifies for the home they live in e.g. it is too big, we will provide advice and assistance to those who have not breached their tenancy conditions to find more suitable housing.

For general needs tenants, we will try to offer an alternative property, and may consider offering a shorter term tenancy depending on the circumstances and local demand if nothing is immediately available.

If we cannot assist the tenant or they are not willing to accept what we can offer, and they are at risk of homelessness we will make a referral to the local authority to ensure the tenant receives appropriate assistance.

## **The Tenancy Review**

In the last year of the fixed term tenancy the Council will carry out a formal review that will be in two parts.

First a review of how well the tenant or tenants have conducted their tenancy to determine whether we would want to continue to house them, and whether there are any plans to dispose of the property.

If the tenancy review is satisfactory then the second stage will be to review their personal and financial circumstances to determine whether the current property is still suitable and affordable, and if not, to identify their housing options.

## **Assessment Criteria**

In assessing how well the tenancy has been conducted, the following factors will be considered:

- If there are significant or persistent rent arrears and how well the tenant is repaying what they owe (tenants in intermediate rent properties must have a clear rent account).
- Any other tenancy breaches.
- Whether the tenant is using the property as their only or principal home.
- How well they have looked after the property and garden.
- Whether the tenant has engaged with the end of tenancy review process.

Where we are no longer prepared to house the tenant we will provide general advice on housing options and refer the tenant to the housing options team and/or homeless persons unit.

Once it has been determined that we would consider offering a new tenancy, we will then consider any redevelopment plans for the property and assess the tenants' need for their current home. The assessment will include:

- Any plans to redevelop or dispose of the property.
- The tenants and household members' ongoing right to rent in the UK.
- Whether the tenant and/or their spouse, civil partner or partner has a tenancy or ownership of another property.
- Household composition and ages - household members will only be those who have lived at the property as their sole or principle home and who are part of the tenants family i.e. lodgers will not be considered as part of the household.
- The size of the property, any under occupation or overcrowding and whether the number of rooms required is likely to change in the next 12 months e.g. children leaving home or children no longer being able to share a bedroom (the size of property a tenant is eligible for is set out in our Allocation Policy).

- Whether there are any children of 15 years or over who are due to sit school exams within the next 12 months.
- Whether the household income, equity or savings is such that the tenant(s) could afford to find a home on the open market (intermediate rent, market rent, shared ownership, or home ownership). The thresholds are where the total household income is over £XXX and alternative affordable options would be no more than 45% of household income.
- Any health or other issues that may affect the suitability of their current home or their ability to sustain another tenancy.
- Any adaptations and whether anyone in the household requires the adaptations, and whether there is another applicant in need of such an adapted property.

This information will be used to consider the suitability or otherwise of all available housing options and we will discuss the options with the tenant, as well as their aspirations to move to other tenures such as shared ownership or home ownership where this is applicable.

We will factor in whether the property is within an area with a current Local Lettings Plan (LLP) and by not offering a further tenancy to the tenant it would conflict with the objectives of the LLP that is in place.

We will also have regard to the demand for the size and type of housing in the area and the supply and turnover of properties. It may be that the Council does not have the size and type of property the household now requires, or that there is very little demand for the size and type of property the tenant currently occupies.

We will not be able to offer another tenancy to an overcrowded household at their existing property if the level of overcrowding is such that it is in breach of the statutory room and space standards.

Where households are statutorily overcrowded, we will issue a 'minded to' notice and provide the tenant(s) with housing options advice to assist with alleviating the overcrowding (e.g. discuss with the tenant(s) whether any household members can be rehoused separately, or whether referrals are required to the housing options team).

## **Housing Options**

Following the tenancy review and housing needs assessment, where it is determined that we would be willing to continue to house the tenant if we can, we will provide them with advice and assistance on the housing options available to them and ensure they have appropriate support to access those options.

The options will be based on the findings of the review assessment and may include one or more of the following:

- A further 5-year tenancy at the same address.
- A further tenancy at a more suitable Council owned rented property - we will support the tenant to do this through a transfer if they wish to live in the borough. This will normally be where the tenant has met their tenancy obligations, but the current property is no longer suitable i.e. it is too large, too expensive or adapted.
- Applying for a rented property with another landlord – the Council will support the tenant to do this through housing and mutual exchange applications to other registered providers.
- Applying for sheltered or supported housing with a registered provider where the tenant meets the age criteria and/or has support needs.
- A fixed term tenancy of 2 years at the same property – where rehousing to an alternative property is recommended but no suitable accommodation is available, but it is likely to become available within the 2 years; or where the tenant has rent arrears more than the equivalent of two months full rent (or 8 weeks if it is a weekly tenancy) but has been maintaining the terms of a repayment plan agreed with the Council or under a court order; or other exceptional circumstances

such as the property has had a decision to be disposed of or demolished, or the tenant has successfully applied for shared or outright ownership but the property is not yet available. This list is not exhaustive and provides examples of the situations where this may occur.

- Applying for private rented housing on the open market.
- Home ownership where income and savings may be sufficient for the tenant to obtain a mortgage.
- No further offer of housing (termination of tenancy) – where the customer has made their own arrangements, or we are unable to support them any further with alternative housing options.

### **Offers for General Needs Rented Housing**

If we have, or are likely to have, suitable available properties and offering another tenancy at a different property has been identified as an option, then the tenant(s) must register for the transfer list. Once they have been served a 'minded to' notice they will be allocated additional points in line with the Council's Allocation Policy. Where households are overcrowded they will not be given priority over other overcrowded households on the housing register purely because their fixed term tenancy is coming to an end.

The tenant will be free to bid on any advertised properties that they qualify for. If they have not successfully bid by the time the section 21 notice of requiring possession is served 2 months prior to the tenancy end, possession proceedings will start. If a property that they are eligible for becomes available before possession action is complete we will consider offering it to them. Only one offer will be made. If this is refused the Council will offer advice and assistance on other housing options.

We cannot guarantee to make an offer if no suitable properties are available. We will endeavour to offer housing in areas of the tenant's preference but if the size and type of housing is not, and is not likely to be, available in those areas, other areas will be considered. This may mean offers in neighbouring towns or boroughs. However, decisions will be made on a case-by-case basis according to the circumstances of the case, demand for the property and or other relevant factors.

### **Termination of Tenancy**

Where it has been decided not to offer another tenancy at the same address, the tenant(s) will be served with a written notice (a 'minded-to' notice) that will state our intention not to grant another tenancy on expiry of the fixed term, the reasons for that decision, how they can obtain help and advice about the notice, and cover any obligations on us as the landlord to provide help and advice.

The 'minded-to' notice will normally be sent not less than 6 months before the end of the fixed term.

A section 21 notice to bring the fixed term to an end will be issued no less than 2 months prior to the tenancy end date, and legal action to recover the property will commence where tenants refuse to leave the property after the expiration of the section 21 notice.

Should the tenancy review occur in the last 6 months of the tenancy, we will still serve a 'minded to' notice and give the tenant notice (6 months) of our intention not to offer another tenancy.

### **Tenancy Breaches**

The Council will normally only terminate a tenancy due to tenancy breaches where:

- There are significant arrears (i.e. more than the equivalent of two months full rent or 8 weeks full rent for weekly tenancies) and a repayment plan or an arrangement under a court order is not being maintained.
- There has been persistent anti-social behaviour or other breaches of tenancy that the tenant has not tried to rectify, including failure to allow access for gas servicing or essential repairs. This may be for breaches where during the tenancy possession action was not considered

to be proportionate, e.g. untidy gardens, noise nuisance or damage to property, but is persistent enough to not offer a new tenancy once the original tenancy has come to the end of its term.

- Serious one-off antisocial behaviour such as violence or threats of violence to others, hate crimes, domestic abuse or serious damage to property.
- Abuse and threats towards the Council's staff or contractors.

For tenants who are not going to be offered another tenancy in a Council property because of a tenancy breach, they will be referred to the Housing Options team as being at risk of homelessness for advice about the housing options available to them.

### **Requests for a Joint Tenancy**

If a further fixed term tenancy is to be offered and a sole tenant requests for the new tenancy to be a joint tenancy with their spouse, civil partner or partner we will agree to this provided that there has not been a previous succession, and the sole tenant's partner has not previously been evicted by or has outstanding debt with the Council, does not have a tenancy for or own any other property, has the right to rent and meets and there is no evidence of anti-social behaviour.

### **Joint tenant request for a sole tenancy**

If a further fixed term tenancy is to be offered and a joint tenant requests for the new tenancy to be a sole tenancy because the other tenant is no longer living in the property as their sole or main home, we will agree to this provided that we are confident that the joint tenant no longer lives there.

Checks will be made and notices served to both tenants. Where there is any concern that they may still be resident and want to remain on the tenancy, then legal proceedings will start to bring the fixed term tenancy to an end first.

### **Vulnerable Tenants**

Where a tenant has a significant vulnerability or they or a household member receive specific care and support services that can only be provided at their current home or in the local area, we are committed to ensuring that they can remain in the property providing there are no serious breaches of tenancy.

We will consider the availability of suitable alternative accommodation in proximity to their care and support service(s) if at the tenancy review the property is too large or adapted and they no longer have a need for such a property, and we may rehouse them in something more suitable depending on the level of any recorded need for that type of property.

### **Appeals**

Once the tenant has received the 'minded-to' notice, if they disagree with the decision not to offer another tenancy, they can make an appeal for the decision to be reviewed.

The tenant has 21 calendar days to submit their appeal in writing which should identify the reasons why the tenancy should not be terminated. Where necessary, we will refer the tenant for support from an external agency to produce the appeal in writing.

The appeal will be considered by someone who has not previously been involved in managing the tenancy or the decision to bring the fixed term tenancy to an end. They will review the tenancy record and the tenants' appeal to consider:

- If the decision to end the fixed-term tenancy is in accordance with this Policy.
- If it is proportionate not to offer a further tenancy considering the change in circumstances or needs of the customer.

The person reviewing the appeal will record their decision and communicate the outcome to the tenant, within 14 calendar days.

If the original decision is overturned the relevant new tenancy will be offered.