



Canterbury City Council

Tenancy Policy 2016

August 2016

1. Introduction

The Localism Act 2011 places a duty on local authorities to publish a tenancy strategy setting out:

- the types of tenancies they grant
- the circumstances in which they will grant tenancies of a particular kind
- where they grant tenancies for a certain time, the length of the terms
- the circumstances in which they will grant a further tenancy on the coming to an end of an existing one

This policy has been written with reference to the Canterbury District Tenancy Strategy and sets out the types of tenancies granted by Canterbury City Council for tenants of its own housing stock. It will be used to ensure that the right type of tenancy is allocated to each tenant, that the under-occupation of properties is addressed effectively and that we can provide the most appropriate type of accommodation for our tenants' needs.

2. Policy aims and objectives

This policy aims to ensure that:

- the right people are living in the right property, on the right type of tenancy
- certain groups of tenants can be moved from properties which are no longer suitable for their needs
- tenants will be encouraged to move to more suitable accommodation if their existing home becomes too big or their needs or circumstances change
- tenants will be helped to sustain their tenancies but where problems occur, particularly at the start of the tenancy, action can be taken quickly
- tenancy fraud is identified and tackled

3. Types of tenancy

3.1 Introductory tenancies

All tenants new to Canterbury City Council's housing stock are initially granted an introductory tenancy. Before the start of the introductory tenancy, tenants will be told which type of tenancy (i.e. secure or flexible) they will be granted at the end of the introductory period.

Introductory tenancies are initially granted for a period of 12 months, although this can be extended by up to another six months.

After the introductory period, the tenancy automatically becomes either a secure tenancy or a flexible tenancy unless we have begun proceedings to end the tenancy (i.e. served a Notice of Possession Proceedings) due to a breach of the Tenancy Agreement.

Breaches of the Tenancy Agreement and reasons why an introductory tenancy may be extended include, but are not limited to, rent arrears and anti-social behaviour.

Introductory tenants do not have the same rights as secure or flexible tenants; for example:

- They cannot apply for the right to buy their home
- They cannot carry out a mutual exchange (swap their home) with other tenants

3.2 Secure tenancies

Following satisfactory completion of the introductory tenancy, the following groups of tenants will be granted a traditional secure lifetime tenancy:

- People aged 55 and over who are moving into sheltered or enhanced care housing
- People aged 55 and over who are moving into a general needs or designated elderly bedsit or one bedroom property
- Members of the armed forces who have sustained life changing injuries during the course of their service

3.3 Flexible tenancies

In all other circumstances, a secure flexible tenancy of five years will be granted upon completion of the introductory period.

3.4 Demoted tenancies

In some cases where there have been incidents of anti-social behaviour, we will apply to court to obtain a demoted tenancy for a period of one year. Demoted tenancies are broadly similar to introductory tenancies in that they give tenants less security and fewer rights than a secure tenancy.

3.5 Non-secure tenancies

These are temporary tenancies which are only granted to people moving into short term accommodation such as hostels, as a result of the Council's homelessness duties.

3.6 Sole tenancies and joint tenancies

A sole tenancy is in the name of one person only and a joint tenancy is in the name of two people. Where two adults living as a couple apply for housing together, the Council will grant a joint tenancy.

If you are an existing Canterbury City Council tenant and apply to the Housing Need Register for rehousing, any future offer of a home will be made based on the current tenancy. Therefore, if a tenant is an existing sole tenant, even if their new application for housing includes their partner, any new tenancy would be granted in the name of the existing sole tenant only.

3.7 Sole to joint tenancy requests

A sole tenant does not have a 'right' to a joint tenancy and restricting granting permissions for these helps reduce the risk of fraud. Where an existing sole tenant requests that a joint tenancy be granted to them and another person, this will be considered on a case by case basis at the Council's discretion.

Where the additional person proves that they have been living with the existing sole tenant for at least 12 months or is their spouse or civil partner the Council will usually agree to the request.

The Council will not usually grant a new joint tenancy if:

- The existing sole tenant has rent arrears
- The existing sole tenant has breached the terms of their tenancy agreement
- The existing sole tenant owes any other housing debt to the Council
- There is a valid Notice in place for any breach of tenancy or a County Court Order has been obtained as a result of such a breach
- The tenancy is already a joint tenancy

- There is evidence that one or both parties do not intend to use the property as their main and principal home
- The proposed joint tenant owes the Council money
- The proposed joint tenant has been evicted by another landlord for breaching the terms of their tenancy
- The proposed joint tenant holds a tenancy elsewhere
- The proposed joint tenant is subject to immigration control

This list is not exhaustive and all other circumstances relevant to the case will also be taken into account.

If a new tenancy is granted, the type of tenancy will be determined by the criteria set out in sections 3.1 to 3.5 of this policy.

The Council will always inform you of its decision in writing.

3.8 Joint to sole tenancy requests

When either or both joint tenants give notice to the Council that they wish to end the tenancy, the entire tenancy comes to an end for both joint tenants. However, in certain circumstances it may be possible to assign your tenancy to the former joint tenant who wishes to become a sole tenant. Please see section 3.10 of this policy for details of when assignment is permitted.

We will always change a joint tenancy into a sole tenancy if we are instructed to do so by the County Court after a divorce or legal separation.

Where one tenant serves notice and leaves the property, the Council will consider granting a new sole tenancy to the remaining tenant. This will usually be granted if the property is the right size and type for the former joint tenant who wishes to become the sole tenant and providing any adaptations made to the property are required by them.

The Council will not usually grant a new sole tenancy if:

- The tenant who wishes to remain would not be eligible for housing under the Council's Housing Allocation Scheme
- There are rent arrears
- There are any breaches of the terms of the tenancy agreement
- There is any other housing debt owed to the Council
- There is a valid Notice in place for any breach of tenancy or a County Court Order has been obtained as a result of such a breach
- There is evidence that the tenant who wishes to remain does not intend to use the property as their main and principal home
- The tenant who wishes to remain is subject to immigration control

This list is not exhaustive and all other circumstances relevant to the case will also be taken into account.

If a new tenancy is granted, the type of tenancy will be determined by the criteria set out in sections 3.1 to 3.5 of this policy.

The Council will always inform you of its decision in writing.

3.9 Succession

If you became a tenant before 1 April 2016:

When you die your tenancy may pass to your husband, wife or civil partner if they were living with you at the time of your death. If you do not have a husband, wife or civil partner when you die, your tenancy can pass on to another member of your family who has been living with you for at least 12 months before your death. Family members includes your parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece, but does not include foster children.

If you became a tenant after 1 April 2016:

Your tenancy can only pass to your husband, wife or civil partner, or a person who lives with you as if they were your husband, wife or civil partner if they were living with you at the time of your death.

If you have a joint tenancy and one of you dies, the tenancy will pass to the other joint tenant and this will count as a statutory succession.

If your tenancy passed to you when the previous tenant died, no one else has the right to succeed or take over your tenancy.

Where there is no legal right for a person to succeed to a tenancy, the Council may consider granting a new tenancy of the existing property if the occupier has lived with the tenant for the previous 12 months and would have been a qualified successor if the previous succession had not happened, but only if the property is the right size for their family. If the property is not the right size for the family, the Council may consider granting a new tenancy of another property which is of a suitable size. In considering individual cases, the Council will take into account whether any housing duty is owed under homelessness law and also the qualifying criteria for joining the Council's Housing Allocation Scheme. If no housing duties are owed, the matter will be decided by the Assistant Director (Direct Services) who has delegated powers to exercise discretion.

Factors which will be considered in deciding whether to grant a discretionary succession include:

- The age of the person
- The length of time they have lived in the property
- The size of their family
- Medical needs
- The suitability of the property, including any adaptations which have been made
- Income
- Social and welfare needs

This list is not exhaustive and all other circumstances relevant to the case will also be taken into account.

The Council will always inform you of its decision in writing.

3.10 Assignment

In certain circumstances, secure tenants have the right to assign (pass) their tenancy to someone else. As assignments use up the right of succession and a tenancy can only be succeeded to once, someone who was granted their tenancy as a succession cannot carry out an assignment.

You have the right to assign your tenancy in the following circumstances:

- 1) A succession has not previously taken place on the tenancy
and
- 2) The proposed assignee would be eligible for housing under the Council's Housing Allocation Scheme
and either
 - a) The proposed assignee would be eligible to succeed to your tenancy on your death
or
 - b) An order is made by the Court

If an assignment takes place, this will use the right of succession and there will therefore be no further right of succession to the tenancy.

4. Tenancy sustainment

In partnership with East Kent Housing, who manage the Council's housing stock on its behalf, the Council will support tenants to enable them to sustain their tenancies. This will be achieved through the following interventions:

- A new tenancy visit conducted within six weeks of the tenancy start date to ensure that all new tenants are receiving any support they require
- Additional home visits where necessary during the first 12 months of the tenancy, in order to assess the way in which the tenancy is being conducted and identify any additional support needs
- Regular tenancy audits in order to update our tenant profiling information and ensure properties are being maintained in accordance with the Tenancy Agreement
- Signposting tenants to other agencies who can assist with the provision of advice and support in relation to other services such as welfare and benefit advice, including, but not limited to:
 - Social Services
 - Citizens Advice Bureau
 - Canterbury Housing Advice Centre

5. Reviewing flexible tenancies

At least nine months before a flexible tenancy is due to end East Kent Housing will, on behalf of the Council, visit the tenant to review their circumstances in order to allow a decision to be made on whether a further tenancy will be granted.

The outcome of the review will be one of the following:

- A new flexible tenancy is granted for the tenant to remain in their current
- A new flexible tenancy is granted for the tenant to move to a different home
- A secure lifetime tenancy is granted for the tenant to remain in their current home
- The flexible tenancy is terminated

There will be presumption in favour of renewing a flexible tenancy when the initial term comes to an end, and most tenants will receive a new flexible tenancy to remain in their existing property.

However, in the following circumstances, a new flexible tenancy will be granted for the tenant to move to a different property:

- The property is now under-occupied (this means there is now one or more spare bedrooms)
- The property has been adapted to works in excess of £5,000 and the person who needed the adaptations no longer lives there

The tenant will be granted a secure lifetime tenancy to remain in their current home where one or more of the criteria set out in section 3.2 of this policy now apply, namely:

- People aged 55 and over who are living in sheltered or enhanced care housing
- People aged 55 and over who are living in a general needs or designated elderly bedsit or one bedroom property
- Members of the armed forces who have sustained life changing injuries during the course of their service

The tenancy will be terminated in the following circumstances:

- The tenant now has gross annual income greater than the amount stipulated in the Council's Housing Allocation Scheme (currently £25,000 for a one bedroom property, £31,000 for a two bedroom property, £37,000 for a three bedroom property and £54,000 for a four bedroom property)
- The tenant has been served Notice as a result of anti-social behaviour

If the flexible tenancy is to be terminated, the tenant will be given at least six months' notice of our intention to do so. This notice will be served in writing by East Kent Housing on behalf of the Council and will clearly state the reasons for the decision and notify the tenant of their right to appeal the decision. Details of our appeals process are contained in section 6 of this policy.

In the period immediately following this notice being given and prior to the tenancy ending, the Council's Housing Options team will actively signpost tenants to enable them to identify and access suitable alternative housing, which may include assistance to enable households to secure accommodation in the private rented or owner occupation sectors. The Council will start eviction proceedings if the tenant refuses to move when the notice period expires.

6. Appeals

If a flexible tenant disagrees with the decision not to renew their tenancy, they should use the following appeals process. Tenants do not have the right to request a review of this policy, but they can ask for a review of our decision if they feel we have not interpreted this policy correctly.

Stage 1

Appeals must be submitted in writing to East Kent Housing within 15 working days of receiving the letter informing the tenant of the decision not to renew their tenancy. This letter should clearly state the reasons for the appeal and set out which aspect/s of this policy they feel have not been applied correctly.

The case will be reviewed by a manager from East Kent Housing who was not involved in making the original decision, and a written response will be issued to the tenant within 10 working days of the Stage 1 appeal being received or, in some cases where this is not possible as we are waiting for further information, the tenant will be informed of this and given a revised date by which they can expect to receive a response.

Stage 2

If, after receiving the outcome of their Stage 1 appeal, the tenant remains dissatisfied they can request a further review. This must be submitted in writing within 15 working days of the tenant receiving the decision on their Stage 1 appeal. This appeal will be dealt with by senior officers from East Kent Housing and the Council (usually East Kent Housing's Operations Manager and Canterbury City Council's Strategic Contracts and Commissions Manager). They may seek further information if required in order to reach a decision, which may include asking for further evidence from the tenant, other officers from East Kent Housing and the Council, or specialist advice where required.

The outcome of the Stage 2 appeal will be issued to the tenant in writing within 10 working days of the Stage 2 appeal being received or, in some cases where this is not possible as we are waiting for further information, the tenant will be informed of this and given a revised date by which they can expect to receive a response.

7. Tenancy fraud

It is important that the people living in our properties are those that should be living in them. We are therefore committed to detecting, preventing, detecting and tackling tenancy fraud, which became a criminal offence when the Prevention of Social Housing Fraud Act 2013 came into force. Under the Act, tenants committing social housing tenancy fraud risk a criminal investigation and prosecution, in addition to losing their tenancy.

Tenancy fraud includes:

- Giving false information, or failing to disclose information, when applying to join the Council's Housing Need Register
- Unlawfully subletting (i.e. renting the property to someone else without our knowledge or permission)
- Retaining a property after the tenant has died, where the person remaining in the property has no right to take over the tenancy
- Carrying out a mutual exchange without our knowledge or permission
- Selling the keys to their property
- Giving false information on a Right to Buy application

The Council and East Kent Housing work closely together to identify potential cases of tenancy fraud and investigate them thoroughly. Together, we run a number of routine checks including:

- Verifying the details supplied by the tenant when they submitted their initial application for housing
- Checking information against other internal records
- Taking part in national anti-fraud initiatives
- Carrying out random checks to verify the identities of people living in our properties
- Keeping photographic records of all new tenants

In the case of successful criminal or civil action, the Council may actively publicise the outcome in order to deter further tenancy fraud.

8. Policy review

The Council will review this policy annually.