

Stevenage Borough Council

Tenancy Policy

2013 Onwards

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1. PURPOSE OF POLICY

The purpose of this policy is to set the council's approach to tenancy management following the changes brought about in the Localism Act 2011, and the changes to the regulatory standards that all social landlords are expected to meet.

In addition, the policy clarifies how the council will support tenancy sustainment, tackle tenancy fraud, and manage discretionary succession rights.

The policy is applicable to tenants of Stevenage Borough Council.

2. INTRODUCTION

As part of the wider package of social housing reforms, the Government has introduced the requirement for all social landlords to publish a tenancy policy. The reforms include the introduction of fixed term 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 and changes to the regulatory standards that all social landlords are expected to meet.

In April 2012, the Homes and Community Agency replaced the Tenants Services Authority as the social housing regulator. At this time a revised regulatory framework was introduced along with a revised set of regulatory standards. It is the tenure element of the revised tenancy standard that states the requirement for all social housing providers to publish clear and accessible tenancy policies.

The tenancy policy sets out:

- the kinds of tenancies that the council will offer
- the circumstances in which tenancies will be granted
- the length of tenancies granted
- the council's approach to succession rights
- interventions used to sustain tenancies
- the council's approach to tackling tenancy fraud

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, for all local authorities to develop a tenancy strategy by January 2013.

3. TENANCIES

Types of tenancies

The general rule is that local authorities can only grant secure tenancies. The major exception to this is that they can elect to operate an introductory tenancy scheme. Stevenage Borough Council previously elected to introduce an introductory tenancy scheme and this has run successfully for a number of years.

Introductory tenancies

Unless a new tenant (or one party to a joint tenancy) already has a secure tenancy, or another social housing equivalent such as an assured non short-hold tenancy, the council will grant an introductory tenancy for a trial period.

The Regulatory Framework allows for introductory tenancies for a maximum of 12 months, or a maximum of 18 months where the reasons for extending the introductory period have been given and where the tenant has the opportunity to request a review. During the trial period tenants have less security and fewer rights. For example:

- Their home is at much higher risk of repossession if they do not keep to the tenancy agreement
- They cannot buy their home
- They cannot exchange homes with other tenants.

Secure tenancies

If the trial period is successfully completed, introductory tenants automatically become secure tenants.

Existing secure tenants transferring from other council properties will retain their secure tenancy. Existing assured tenants of housing associations who are transferring into council properties will become secure tenants.

Demoted tenancies

A secure tenancy may be ended by a court order for some kinds of antisocial behaviour and replaced with a demoted tenancy for a year. A demoted tenancy has less security and fewer rights. It is broadly like an introductory tenancy. It is a useful alternative to a suspended possession order in some cases.

Non-secure tenancies

There are a few exceptional situations that operate outside the normal framework of introductory, secure (and occasionally demoted) tenancies. These tenancies enjoy even less security and protection and normally apply to short term accommodation. The most common of these exceptions is tenancies granted by the council under its homelessness functions, which generally relate to temporary and emergency accommodation.

It is important to appreciate that all the above tenancies operate according to statutory criteria. As is the case with most security of tenure legislation, the council cannot choose to set up an individual tenancy outside those criteria.

Joint tenancies

Where the proposed joint tenants are both eligible for housing as defined by legislation, the tenancies listed above could be granted on a joint tenancy basis in the following circumstances:

- where the proposed joint tenants are married or civil partners; or

- where the proposed joint tenants live together and the relationship is an 'established' one i.e. evidence is produced showing they have lived together for at least 12 months prior to the joint tenancy application; or
- there is a child of the relationship living permanently in the household.

Joint tenancies will also be awarded in cases where a sole tenant's eligibility for a property (whether through bidding under choices based lettings or through mutual exchange) is created solely because of the addition to their household of their partner.

The council will not normally grant a joint tenancy to a person who is entitled to succeed to that tenancy (e.g. mother and daughter) as this could compromise its ability to make the best use of its housing stock in the future.

In the context of deciding whether or not to grant joint tenancies the council has a free hand but it must, of course, act consistently in all cases.

Length of tenancy

The general rule is that a tenancy carries on indefinitely, unless a flexible (fixed term) tenancy has been granted. In legal terms, it is a weekly tenancy. It therefore continues running week-by-week (from first thing Monday to midnight Sunday), beginning with the date shown on the original tenancy sign-up sheet, until it ends. The tenancy may be ended as follows:

- by the tenant – notice to quit
- by the council – notice to quit (only if there is no security of tenure)
- by the council – court order
- by agreement – surrender

The council's tenancy agreement explains these circumstances in more detail. However it should be noted that the council may normally only seek to end a tenancy if the conditions of the tenancy agreement have not been adhered to, or in the case of death of a tenant.

Flexible (fixed term) tenancies

Section 154 of the Localism act 2011 gives local authorities the power to offer flexible tenancies to new social tenants and to family intervention tenants. A flexible tenancy is a secure tenancy of a fixed term of not less than 2 years.

Stevenage Borough Council does not offer flexible or fixed term tenancies.

4. RENTS

The council charges social rent on all of its tenancies. Rent levels are set under the terms of the council's Rent and Annual Service Charge Setting Policy. Service charges are shown as a separate weekly charge for the homes which benefit from these services. Other items may be added to the rent, for example, district heating charges and water rates.

5. HOUSING EXCHANGES

Tenants of Stevenage Borough Council considering moving, if eligible, can exchange their home with another council tenant or housing association tenant.

The council's Assignment and Mutual Exchange policy sets out:

- the circumstances under which applications for assignment are considered and
- the council's commitment to ensure requests for assignment or mutual exchange are dealt with promptly, fairly and efficiently and in accordance with the Housing Act 1985

6. SUCCESSION RIGHTS

A tenant's succession rights are contained in the council's tenancy agreement. However, the general rule is that a tenant cannot pass their tenancy on to other people. When a tenant no longer needs their home, they must return vacant possession of the property to the council who must re-let it in accordance to its allocation policy. The exceptions to this general rule are:

- If a tenant dies during their tenancy and they are a joint tenant, the tenancy continues for the remaining tenant.
- If a tenant dies during their tenancy, they are the only tenant, and:
 - specified members of their family are in occupation of their home as their main residence
 - they have lived with the tenant for the required period of time
 - the tenant was neither a joint tenant originally nor somebody to whom a tenancy had been passed on to already,then the tenancy passes to one of those family members.

It is important to note that it is the tenancy that is succeeded to and not the property. A successor tenant may be required to move if the property is considered to be too large for their needs, or otherwise unsuitable.

- A tenancy may therefore be passed on to a family member, but only once. The people who are specified as family members and the required period of residence (12 months) are set out in legislation, details of which are available upon request.
- In certain circumstances, the council does allow a succession to a tenancy to a qualifying family member even when the one statutory succession has already taken place. This is known as a non-statutory succession. If approved, the non-statutory successor tenant will always be required to move if the property is considered to be too large for their needs, or otherwise unsuitable.

An important note regarding succession rights is that as a result of changes to the law on succession made in the Localism Act 2011, for all tenancies started after 1st April 2012 the statutory right to succeed to a tenancy belongs only to the qualifying spouse, partner or civil partner of the tenant. Tenancies which commenced before 1st April 2012 are not affected by these changes.

7. TENANCY SUSTAINMENT

The council is committed to helping tenants to maintain their tenancy and offers a variety of ways support tenants in achieving a successful tenancy. The council's Tenancy Sustainment Policy sets out the approach to ensuring all individuals succeed in their tenancies, to minimise tenancy failure and to support people to live in their homes independently.

Where a tenant has been identified as needing additional support, this will either be provided by the council's tenancy support team, or the tenant will be sign-posted to external agencies such as the Citizens Advice Bureaux or floating support services.

8. TENANCY FRAUD

The council will take action against any tenant found to be committing tenancy fraud, including those tenants found to be sub-letting their home without permission.

Commitment

The council's approach to tenancy fraud is to comply with the Regulatory Framework, and to commit to tackling housing fraud. The council will take action to prevent fraud and to ensure that its housing stock is only occupied by those with a legal right to be in residence.

- Partnership – we will work in partnership to tackle reports of tenancy fraud with other council departments and external agencies.
- Communication – where appropriate, we will publicise cases of tenancy fraud.
- Prevention – we will identify opportunities to prevent tenancy fraud.
- Enforcement – we will take enforcement action to stop tenancy fraud and to ensure social housing is being used for its intended purpose.
- Performance – we will look at ways to continually improve our performance on tackling tenancy fraud.

Prevention

The council recognises the importance of different departments and agencies working together and will continue to share information where legislation permits to limit or prevent tenancy fraud.