

Housing and Regeneration



# Flexible Tenancy Policy 2019



## **1. Introduction**

- 1.1 The Localism Act 2011 introduced new flexibilities for Registered Providers (RPs), which includes stock-holding Local Authorities, to offer social housing tenancies for a fixed period.
- 1.2 Since April 2012 the regulatory framework requires RPs to publish clear and accessible policies which outline their approach to tenancy management and have due regard to the tenancy strategies published by the local authorities in which they operate.

## **2. Aims and objectives**

- 2.1 The aims and objectives of this policy are to:
- set out the circumstances in which Milton Keynes Council offers flexible tenancies and the length of flexible tenancies granted
  - to use flexible tenancies to offer social housing homes to households who would otherwise need to access temporary accommodation
  - outline the circumstances in which tenancies may or may not be re-issued at the end of a flexible
  - explain how tenants may appeal the type of tenancy offered, the length of the term granted and any decision not to renew the tenancy

## **3. Statutory and Regulatory context**

- 3.1 This policy has been developed in the context of the following legislation and regulatory framework:
- Housing Act 1985
  - Localism Act 2011
  - The Regulatory Framework for social housing in England
- 3.2 The Council will ensure it meets all statutory and regulatory requirements.

## **4. Definition**

- 4.1 A flexible tenancy is an assured short-hold tenancy granted by an RP which is fixed for a minimum period of two years.

## **5. Policy statement**

- 5.1 The Council will offer flexible tenancies for a period of 2 years to all households where the Council has bought their existing property from a private landlord, to prevent homelessness.
- 5.2 The Council will manage the flexible tenancy in the same manner as it manages secure tenancies, and tenants will be subject to the same tenancy conditions. Equally, flexible tenancies confer the same rights as secure tenancies, such as the right to succession, assignment or mutual exchange. The Council's duties are also the same.
- 5.3 Rent will be based on prevailing Local Housing Allowance rates.

5.4 The flexible tenancy can only be determined by the Council in one of three ways:

a) To terminate the tenancy entirely, using prevailing statute, currently by way of grounds set out in the Housing Act 1985, as amended by the Localism Act 2011;

b) The grant of a new flexible tenancy for a fixed period;

c) The grant of an introductory tenancy.

## **6.0 Review**

6.1 When a flexible tenancy is offered The Council will provide a full explanation of how and when the tenancy will be reviewed pending the end of the term.

6.2 The review process will commence 12 months before the end of the flexible tenancy.

6.3 The process will include a review of existing household members and how the tenancy has been managed. It will take into account:

- The efforts made by the household to seek alternative accommodation, both in the public and private sector
- Housing need and suitability of the property
- Tenancy management history at the property
- Legal right to remain

6.4 We will expect tenants to actively engage in the review process and provide information and documentation as requested.

6.5 If the conditions in section 6.3 have been fully met, the Council will expect to offer a secure tenancy at the occupied property subject to the tenant's reasonable preference and priority being sufficient to warrant an allocation of that property under the Council's allocation policy, or made a direct offer of an alternative property for which they have reasonable preference. However, this may not apply if:

- There are current and/ or there have been persistent breaches of the tenancy agreement during the fixed term period including, but not limited to: anti-social behaviour; subletting; tenancy fraud or rent arrears
- Works are required on the property in the next 5 years which would require its redevelopment or demolition
- The property would be sold if it became empty in line with the Asset Management Strategy
- The tenant and / or advocate does not engage in the flexible tenancy review process
- The property has been damaged and the tenant has failed to rectify

- 6.7 We will assess each tenant's situation on an individual basis, taking into account the following when making the decision about subsequent tenancies:
- Care, support and health needs of the tenant including access to local support networks, family members and services which the tenant relies on
  - Whether a move would require any children permanently residing in the property to change school
  - Where someone in the household is in work or training which a move would put at risk if the only available options made travel too difficult.
  - Significant mitigating factors contributing to the tenant being unable to comply with the requirements of this policy. Any decision made in this regard will be at the discretion of the Director of Housing and Regeneration.
- 6.8 Where there are arrears on an account the tenant will be asked to clear these in full prior to the new tenancy being granted. Where this is not possible but a decision is made as an exception to award a new tenancy, the arrears will remain due and be recovered in line with our Former Tenant Arrears process.
- 6.9 If the tenancy is to be ended, the tenant will be notified of the decision in writing no less than six months before the end of the flexible tenancy, followed by a Notice Seeking Possession giving the tenant not less than 2 months' notice of its intention to seek possession.
- 6.10 If tenancy breaches occur during the term of the tenancy, the Council may seek possession of the tenancy using the grounds available against a periodic secure tenancy. This action may be commenced at any time during the tenancy, subject to timely service of appropriate notices.

## **7. Appeals**

- 7.1 Tenants have the right to appeal against:
- The type of tenancy offered
  - The length of a flexible tenancy
  - A decision to end a flexible tenancy entirely
- 7.2 Any applicant can request a review of the type of tenancy offered or the length of the tenancy and the decision will be reviewed by the Head of Homelessness Prevention and Housing Access.
- 7.3 Any appeal against a decision not to renew a tenancy must be made within 21 days of the issue of notice setting out this intention and will be considered by the Director of Housing and Regeneration.

## **8. Equality and Diversity**

- 8.1 We will ensure that this policy is applied fairly and consistently to all applicable tenants.
- 8.2 We will not directly or indirectly discriminate against any person or group of people because of their race, religion/faith, gender, disability, age, sexual orientation or any other grounds set out in our Equality and Diversity policy or legally protected characteristic. Our aim is to ensure that policies and supporting procedures do not knowingly create an unfair disadvantage for anyone, directly or indirectly.

## **9. Data Protection**

- 9.1 We will hold all information about applicants and tenants in a secure manner, in line with the principles of the General Data Protection Regulations.

