

# Tenancy Strategy 2023

## 1. INTRODUCTION

- 1.1 The Tenancy Strategy seeks to ensure that Tunbridge Wells Borough Council (TWBC) and Registered Housing Providers (RP) work effectively in partnerships to meet the council's strategic housing priorities
- 1.2 The purpose of the tenancy strategy is to provide guidance to registered providers operating within the borough
- 1.3 The Localism Act 2011 requires local authorities to develop a tenancy strategy setting out the matters which registered providers should have regard to when formulating their policies for their own stock, relating to;
- Tenancy Types Granted
  - Circumstances in which tenancy types will be granted
  - length or duration of the term granted of tenancy
  - The circumstances in which they will grant a further tenancy on the expiry of a fixed-term tenancy
- 1.4 Registered Providers of social housing work across multiple local authority areas and this Tenancy Strategy is meant to provide guidance in the Tunbridge Wells Borough Council area only.
- 1.5 The basis of our strategy is the Kent Tenancy Strategy Framework, written by Kent Housing Group on behalf of all 13 local authorities in Kent.
- 1.6 All RPs need to have developed a tenancy policy before they can implement fixed-term tenancies. This Tenancy Strategy will assist them in developing such policies or updating any existing policies. The full regulatory requirements for Registered Providers of Social Housing are available at:  
<http://www.homesandcommunities.co.uk/ourwork/regulation>

## 2. Tenancy Terms

### 2.1 Introductory Tenancy

- 2.1.1 This is a probationary Tenancy usually consisting of a one-year trial period whereas long the terms and commitments of tenancy are met, tenants are then either given an assured or an assured shorthold tenancy agreement.

2.1.2 The Council supports the use of introductory or probationary tenancies of one year followed by fixed-term tenancies.

## 2.2 Assured Tenancies (Life-time Tenancies)

2.2.1 Assured tenancies are granted by registered providers of social housing under the Housing Act 1988 Under the Localism Act, RPs must offer secure or assured tenancies to applicants who were already social tenants before the provisions were enacted and this applies to mutual exchanges, reciprocal moves or moves as a result of major works or regeneration.

2.2.2 The provision of lifetime tenancies will be appropriate for some applicants on the housing register. This includes households where the circumstances which led to them being granted a tenancy are unlikely to change over time, this may include applicants with long term physical or mental health conditions, an elderly applicant living in specially designated housing such as sheltered housing and extra care housing

## 2.3 Fixed Term Tenancies

2.3.1 This is also known as a flexible or assured short-hold tenancy and is intended to last for a fixed period. Normally five-year fixed-term tenancies are issued, but two-year fixed-term tenancies may be issued in some circumstances. Fixed-term tenancies are different from 'lifetime' tenancies, which have no set end date.

2.3.2 Fixed-term tenancies provide a way of making use of limited stock as well as linking tenancy renewal and length of tenancy to responsibilities.

2.3.3 Housing associations using fixed-term tenancies should publish clear and accessible policies outlining their approach to tenancy management, including an equality impact assessment of the policy. The policies should include:

- The types of tenancies to be granted
- Where tenancies are granted for a fixed term, the length of those terms
- The circumstances under which a particular tenancy will be granted

- The circumstances under which a tenancy may or may not be reissued at the end of the fixed term
  - The way in which a tenant or prospective tenant may appeal or complain against a decision not to grant another tenancy on expiry of the fixed term
  - The advice and assistance that will be given to tenants to find alternative accommodation
- 2.3.4 There is a presumption that the majority of fixed-term tenancies will be for a minimum of five years following which tenants' circumstances will be assessed to establish if a new fixed-term tenancy should be offered.
- 2.3.5 It is expected that the majority of fixed-term tenancies will be renewed, and this expectation should be communicated to tenants at the start and periodically throughout their tenancy.
- 2.3.6 The regulator states that tenancies of less than five years should only be granted in exceptional circumstances. There may be exceptional circumstances which arise in individual cases, which would justify granting a fixed term of tenancy of fewer than five years.
- 2.3.7 Types of exceptional circumstances in which RPs may grant a renewable tenancy of fewer than five years include where an existing five-year tenancy has come to an end, and a further shorter term is more appropriate because, for example, the tenant has a history of not keeping to the terms of their tenancy agreement. This will provide clarity on a tenant's responsibilities and provide an opportunity for any necessary support to be put in place to help sustain the tenancy.
- 2.3.8 Examples of breaches of the tenancy agreement could include; where the tenant has not kept to the terms of a rent arrears agreement for eight weeks, or where there have been complaints of nuisance or anti-social behaviour and warning letters have been issued, but evidence that the nuisance or anti-social behaviour is continuing.

## 2.4 Tenancy Renewal

- 2.4.1 RPs are expected to review a fixed-term tenancy six months before it is due to end to decide whether it should be renewed and must publish clear guidance on the process criteria to be used in deciding whether a tenancy should be renewed.

- 2.4.2 The Localism act set outs the procedure for RP's in circumstances where the decision is made to not grant another tenancy after a fixed-term tenancy.
- 2.4.3 It is essential that RPs clearly communicate renewal terms to new tenants when they are offered fixed-term tenancies so they understand that in most circumstances tenancies will be renewed. This will help tenants, particularly those that are vulnerable, feel connected and settled and also able to contribute to their local areas and to invest in their homes.
- 2.4.4 To ensure the process is dealt with as sensitively as possible, whilst also ensuring key outcomes are still achieved, TWBC supports the following approach: The tenancy renewal meeting should be issued promptly to give enough time to consider all issues and for appeals to be made.
- 2.4.5 In circumstances where the tenancy is likely to be renewed, but the property is no longer suitable for the tenants' needs, it would be suitable to offer the tenant an alternative and more suitable property under a new fixed term tenancy where, for example
- The property is no longer suitable in size for the tenant due to under or over occupation
  - The property has been extensively adapted for someone with a disability who no longer lives with the tenant, and this would allow the property to be released for someone who will benefit from the adaptation
- 2.4.6 Where a tenancy is not going to be renewed, Registered Housing providers should give their tenants no less than six months' notice in writing. The notice must:
- State that the landlord does not propose to grant another tenancy on the expiry of the flexible tenancy
  - Set out the landlord's reasons for not proposing to grant another tenancy
  - Inform the tenant of their right to request a review of the landlord's proposal and of the time within which such a request must be made

2.4.7 Tenancies should generally not be renewed where there has been a serious and persistent breach of the tenancy agreement, such as antisocial behaviour and criminality. RPs should take the following in consideration:

- Consideration should be given to not renewing tenancies where the tenant is not engaging in the review process (any vulnerability issues need to be fully taken into account) Generally tenants felt this approach is fair
- Income and capital should be taken into account and other appropriate housing options discussed, such as intermediate tenures.
- RPs should take a consistent, fair and transparent approach to decisions at the point of tenancy review
- The contribution of the household to the overall vitality of the community and the potential impact on the community if they were to move out of the area

2.4.8 In situations where a decision has been taken by a registered housing provider not to renew a tenancy at the end of a fixed-term, the provider should seek to engage with the tenant at the earliest possible opportunity to make them aware of the provider's intentions.

2.4.9 Housing associations must inform the local authority of a potential eviction before a two-month notice is served.

## 2.5 Existing & Transferring tenants

2.5.1 Registered housing providers should ensure that any existing tenants that are moving to another property and as a result are being offered a change of terms to their current tenancy understand the changes to their terms and any implications this may have.

2.5.2 Registered Providers can determine whether a tenant will keep their current terms but in cases of under-occupation or a tenant moving into a property which has been adapted for their specific needs, TWBC would recommend that if a tenant had a periodic or 'lifetime' tenancy and/or were paying social rent that this should be maintained. In situations where a tenant is forced to leave their property under circumstances

beyond their control, Registered Providers will need to strongly consider if it is appropriate to move these tenants to different terms.

## 2.6 Succession

- 2.6.1 Right of Succession Under the Housing Act 1985, a range of family members were able to succeed to a tenancy on the death of a Secure Tenant including but not limited to spouses, partners, civil partners, grandparents, aunts, uncles, nephews, nieces and adopted children.
- 2.6.2 The Localism Act 2011 introduced changes to the succession framework, whereby there can only be one succession, and when one joint tenant dies, this counts as the one succession. Under the Localism Act, Secure Tenancies that started after 1 April 2012 are limited to the succession of the spouse or civil partners as an automatic right.

## 2.7 Mutual Exchange

- 2.7.1 The term mutual exchange describes the ability of two (or more) tenants in the public housing sector to move houses by swapping their homes.
- 2.7.2 The Localism Act created a mechanism for mutual exchanges to protect certain lifetime tenants. If an assured lifetime or secure lifetime tenancies granted before the 1<sup>st</sup> of April 2012 conducts an exchange with a flexible tenant, their existing tenancies are surrendered, and a new tenancy is issued to each party. The previously secure or assured lifetime tenants are granted another secure or assured lifetime tenancy. The fixed-term tenant is granted a new tenancy, but there is no particular provision regarding its status.
- 2.7.3 Mutual exchanges can be refused due to current rent arrears, anti-social behaviour or any other breach of tenancy.
- 2.7.4 A mutual exchange applicant may be able to appeal a decision if a mutual exchange is refused or a response hasn't been received within six weeks.

### 3. Housing Need

- 3.1 The National Census 2021 identified that Tunbridge Wells has a population of 115300 the Council has a housing register which is used to allocate council and other registered provider accommodation. The housing register also gives an indication of the need for affordable housing in the district.
- 3.2 In Tunbridge Wells, the population size has increased slightly by (0.2%), from around 115,000 in 2011 to 115,300 in 2021. This is lower than the increase for England which 6.6%
- 3.3 There has been an increase of 17.4% in people aged 65 years and over within the borough which coincides national statistics of ageing population.
- 3.4 The supply of affordable housing with the borough is limited and due to the economic climate delivery of new affordable housing remains low and is falling short of need.
- 3.5 As of April 2023, the Council have 827 active households on the housing register. The need is broken down as follows.

1-bed need	2-bed need	3-bed need	4-bed need
298 Households	234 Households	231 Households	63 Households

- 3.6 Data indicates that on a yearly basis more applications are received for households seeking 1 & 2 bed properties than 3 & 4 beds however the average yearly lets of 1 & 2 beds are significantly higher therefore the waiting times for those applicants are significantly less than the waiting times of those applicants seeking 3-4 bedrooms.
- 3.7 On average applicants with a housing need of 3 bedrooms are likely to wait over 3 times longer for a suitably sized property, than those applicants seeking a two bedroom need within the borough
- 3.8 Tunbridge Wells Borough Council is committed to preventing homelessness and providing the community with housing options by sustaining tenancies and helping people cope with the effects of welfare reform to reduce poverty and increase life skills and employment.



**4. Housing Rent Levels**

4.1 Rents are set under two rent regimes: Social Rents and Affordable Rents. The Ministry of Housing, Communities & Local Government (MHCLG) produced a “Policy Statement on rents for social housing” in February 2019, which sets out the government’s policy for setting social housing rents from 1 April 2020 onwards.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/781746/Policy\\_Statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781746/Policy_Statement.pdf)

Affordable Rent	Social Rent
<p>Affordable rent is subject to rent controls that require a rent of no more than 80% of the local market rent inclusive of service charges, where applicable</p> <p>Inflation in local market rents and restrictions on the LHA rate means that an affordable rent set at 80% of the market rent exceeds the LHA rate in many areas. To ensure that affordable rents are truly affordable for tenants, Affordable rent will be capped at the Local Housing Allowance, if 80% of open market value exceeds the equivalent LHA rate</p> <p>The Local Housing Allowance (LHA) is based on the area in which the claimant lives and the number of people living in their household. It is not based on the rent that they are charged by their landlord. The <u>LHA rate</u> is used to calculate housing benefit entitlement for most customers living in privately rented accommodation. LHA rates are set by the central government.</p>	<p>Social rent is paid to registered providers and local authorities. It is low-cost rent that is set by a government formula. This means it is significantly lower than the rent a tenant would pay in the normal market.</p> <p>TWBC is committed to providing social rent on developments where possible and encourages a mixture of tenures on a development to improve viability.</p>

4.2 From the 1<sup>st</sup> of April 2020, Registered Providers may increase Social Rents or Affordable Rents by no more than the CPI (at September of the previous year) plus 1% per year for five years.

4.3 The council expects all Registered Providers to comply with the Policy Statement on Rents for Social Housing 2020 and the Rent Standard and any subsequent amendments in legislation, regulation or guidance.

4.4 Policy H5 within the new Local plan confirms the council’s approach to tenure provision and partitions the provision of onsite affordable housing as 60% social rent and 40% intermediary scheme.

4.5 To further encourage the provision of Social Rent on new developments, Tunbridge Wells Borough Council will consider the total number of units of affordable housing on a site to ensure the overall development remains viable.

4.6 Affordable Housing delivered on an affordable rent basis within the borough of Tunbridge Wells will be capped at LHA rate and will only be considered if delivering the provision of affordable housing at social rent on a site isn't viable.

#### 4.7 Local Housing Allowance

##### High Weald

Bedroom	Rent
Shared Accommodation	£ 100.11
One Bedroom	£ 159.95
Two-Bedroom	£ 207.12
Three Bedroom	£ 260.05
Four Bedroom	£ 345.21

##### Ashford

Bedroom	Rent
Shared Accommodation	£ 78.00
One Bedroom	£ 143.84
Two-Bedroom	£ 168.00
Three Bedroom	£ 207.12
Four Bedroom	£ 260.05

Taken from: <https://lha-direct.voa.gov.uk/> October 2022

## 5. Equality and diversity

5.1 The Council are committed to advancing equality and ensuring that services are accessible, provided fairly and meet the needs of those who require them most.

5.2 In managing the allocation function, the Council and all Registered Providers must ensure that they comply with the Equality Act 2010

5.3 This strategy has been subject to an Equalities Impact Assessment (EIA). We expect all Registered Providers to undertake and publish an EIA of their own tenancy policies

## 6. Review

6.1 This Tenancy Strategy will be reviewed in accordance with Localism Act 2011 and as changes in legislation, regulation or guidance may dictate.

6.2 Significant changes will be taken through the council's committee process for consideration