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Tenancy policy

1.0 Purpose of the tenancy policy

- 1.1 The purpose of this Tenancy Policy, which is effective from 1st June 2013, is to ensure that the most appropriate tenancies are granted to enable the best use to be made of its housing stock, while maintaining cohesive communities. In adopting this Tenancy Policy the Council has had due regard to its adopted Tenancy Strategy.
- 1.2 The main types of tenancies that the Council can grant are secure tenancies, flexible tenancies and introductory tenancies.

2.0 Background and scope of the tenancy policy

- 2.1 The Regulatory Framework for Social Housing in England from April 2012, published by the Homes and Communities Agency (HCA) in March 2012, requires the Council to publish clear and accessible policies, which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud. The Regulatory Framework specifies what should be included in a tenancy policy.
- 2.2 In accordance with paragraph 2.1 of the Tenancy Standard within the Regulatory Framework requires the Council to issue tenancies that are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the effective use of their housing stock.

3.0 The type of tenancies that will be granted

- 3.1 Until the Localism Act 2011 was enacted, councils were only able to grant lifetime secure tenancies, introductory tenancies and tenancies which are not secure tenancies. The Localism Act now also allows flexible tenancies to be granted to new tenants, while protecting the rights of existing tenants. The tenancies that Waverley Borough Council can grant are:

Type of tenancy	Legal basis	Definition	Tenancy length
Secure tenancy	Housing Act 1985, Part IV, Sections 79-81	Lifetime tenancy, following an introductory tenancy	Lifetime
Flexible (secure) tenancy	Housing Act 1985 Section 107A, as amended by the Localism Act	Fixed term tenancy to be granted to new tenants, following a one-year introductory period.	Minimum of 5 years

	2011		
Introductory tenancy	Housing Act 1996, Part V, Chapter 1, Sections 124-125	1 year tenancy issued to new tenants for the first year of their tenancy	1 year
Temporary Non secure tenancy	Housing Act 1985, Schedule 1	Non secure tenancy granted to homeless households in temporary accommodation.	Periodic tenancy

3.2 All new tenants will be granted an introductory tenancy for the first 12 months, followed by a flexible tenancy for a fixed term or a secure tenancy.

4.0 Issuing a flexible tenancy

4.1 A copy of the Council's standard flexible tenancy agreement is attached to this Policy.

4.2 Starting a flexible tenancy

4.2.1 Prior to the start of a flexible tenancy, the Council must serve notice on the applicant to notify them that, on the expiry of the introductory period, the tenancy will become a flexible tenancy rather than a secure tenancy. The notice will inform the applicant of the length of tenancy that they are being offered.

4.2.2 The applicant will sign a tenancy agreement at the start of the tenancy. The agreement will include the terms of the introductory tenancy and the terms of the flexible tenancy. There will be no requirement to sign a new agreement when the introductory period expires.

4.2.3 Where the flexible tenancy is a renewal or granted to a tenant transferring from another council or housing association tenancy, the fixed period will start immediately because an introductory period will not apply.

4.3 During a flexible tenancy

4.3.1 A flexible tenant has the same rights as a secure tenant during their tenancy including:

- Right to repair
- Right to exchange
- Right to consultation
- Right of succession to spouse, partner or cohabitee only
- Right to buy

4.4 Ending a flexible tenancy

4.4.1 Each tenancy will be reviewed 12 months before the expiry date to enable a decision to be reached about what should happen following the expiry date. As part of the review process, a member of staff from the Landlord Services Team will carry out a home visit. Each tenant's circumstances will be assessed, the current make up of the household determined and a financial assessment completed.

- 4.4.2 Following the review of a tenancy, the options that are available to the Council are:
- to offer a further flexible tenancy at the current property
 - to offer a flexible tenancy at another Council property
 - to serve notice of the intention not to renew the tenancy and issue proceedings in the prescribed form, to terminate the flexible tenancy.

4.4.3 Tenants have the right to request a review of the ending of a flexible tenancy, within 21 days of being served a notice informing them of the decision.

4.4.4 At the end of the tenancy a court must make a possession order (where duly requested) if a review has been carried out according to the statutory provisions and the court is satisfied that:

- the flexible tenancy has come to an end; and
- that the landlord has given not less than 6 months notice not to grant another flexible tenancy on expiry, giving the reasons and informing the tenant of their right to review; and
- that the landlord has given the tenant not less than 2 months' notice in writing stating that the landlord requires possession of the dwelling house.

5.0 The circumstances in which tenancies of a particular type will be granted and the length of those terms

5.1 The type and length of new tenancies will be dependent on the household type, but will be for a minimum of 5 years, unless there are exceptional circumstances:

Household Type	Tenancy Type	Proposed length of new tenancy
Elderly (state retirement age) in sheltered accommodation	Secure tenancy	Lifetime
All other household types including families, single person households and households with a disabled person	Flexible tenancy	5 Years

6.0 The exceptional circumstances in which the Council will grant flexible tenancies for a term of less than five years, following any probationary period

6.1 If exceptional circumstances exist, the Council will grant tenancies of less than five years, as set out below:

Exceptional circumstance	Tenancy length
If an Introductory tenancy has been extended due to anti-social behaviour	2 years
If a household is statutorily overcrowded at the time of the review, but no alternative accommodation has been secured	2 years
In a geographical areas where shorter tenancies could help to	2 years

tackle anti-social behaviour	
Where a Notice of Seeking Possession has been issued due to rent arrears and the Court has accepted a payment agreement which the tenant has kept to	2 years
In supported or move on accommodation to meet the objectives of the scheme	2 years

7.0 The circumstances in which flexible tenancies may or may not be reissued at the end of tenancy term

7.1 Each tenancy will be reviewed 12 months before the end of the tenancy term. Unless there has been a change in circumstances, the Council expects a flexible tenancy to be renewed for a further fixed term.

7.2 The circumstances where a further term may **not** be granted are:

No	Circumstances	Measure (at the time of the review, 12 months before the end of the tenancy term)
1	Property is under-occupied	<ol style="list-style-type: none"> Children (up to age of 18 while they remain in full-time education) have moved out Spouse, partner or cohabitee has ceased to reside in the property
2	Property is no longer suitable for the tenant's needs	<ol style="list-style-type: none"> The property has an adaptation, suitable for a person with a disability, that is no longer required by the occupying household
3	Tenant's circumstances have changed	<ol style="list-style-type: none"> The tenant(s) is assessed as having sufficient income, according to the income thresholds in the published allocation scheme, to be able to access housing in the market sector The tenant(s) has come into legal ownership of another home or property A joint tenant or cohabitee has ceased to reside at the property
4	Tenant does not engage in the tenancy review process	<ol style="list-style-type: none"> The tenant and/or their advocate do not engage in the tenancy review process
5	Possession proceedings have commenced or tenancy obligation has been broken	<ol style="list-style-type: none"> The Council has served a Notice of Seeking Possession (NOSP) on mandatory or discretionary grounds on the tenant The Council has evidence of rent arrears equivalent to 4 weeks rent or more The Council has evidence that the tenant has carried out anti-social behaviour The Council has evidence that the tenant has behaved unreasonably, according to the definition

		in the published allocation scheme
6	Disposal or refurbishment of a property	1. The Council needs to dispose or refurbish a property to make the best use of the existing stock

7.3 If a decision not to renew has been made as a result of a review and then circumstances change, a further review can be undertaken.

7.4 If a decision to renew is made, but the facts that have been considered are found to be fraudulent, the Council will review its original decision and reserves the right to take legal action against the applicant or tenant.

8.0 The way in which a prospective tenant may appeal against or complain about the length of the fixed term tenancy offered and the type of tenancy offered

8.1 An applicant can request a review of their offer of accommodation on a flexible tenancy, within 21 days of receiving it under Section 107B(2) of the Housing Act 1985. This period can also be extended by the landlord in writing under Section 107B(4)(b) of the Housing Act 1985. The detailed procedure is set out in The Flexible Tenancies (Review Procedures) Regulations 2012 – Statutory Instrument 2012/695.

9.0 Taking account of the needs of vulnerable customers by reason of age, disability or illness and households with children

9.1 The provision of tenancies of at least five years gives a reasonable degree of stability to households who are vulnerable by reason of age, disability or illness and households with children. To provide added stability to people over state retirement age, secure tenancies will continue to be granted.

9.2 Support will be provided to vulnerable applicants at the start of their tenancies by the Riverside Floating Support, the Waverley Family Support Team and the Council's Housing Options Team as appropriate to give them the best opportunity of sustaining a successful tenancy.

10.0 The way in which a tenant can appeal against a decision not to grant another flexible tenancy on expiry of the fixed term

10.1 The tenant has the right to request a review of the decision not to offer another fixed term, within 21 days of the notice advising them of the decision is served under Section 107E(1) of the Housing Act 2011. The request for a review should state the grounds on which a review is sought.

11.0 The advice and assistance given to tenants whose tenancies are not being renewed

- 11.1 Tenants will be given comprehensive advice and assistance to establish their housing options. The Housing Options Team will have a key role to play in helping those whose tenancies will not be renewed to explore all the options available to them to meet their housing need.
- 11.2 If the tenant has been unsuccessful in finding alternative accommodation by the time they are served with a Notice of Seeking Possession (2 months before the end of their flexible tenancy), housing options advice will be provided to help secure another form of suitable accommodation.

12.0 The policy on granting discretionary succession rights

- 12.1 Succession rights to secure and flexible tenancies granted after 1st June 2013 will be restricted to spouses, partners and cohabiters, unless Waverley Borough Council choose to use its discretionary succession rights in accordance with paragraph 2.1.9 of the Tenancy Standard within the Regulatory Framework for Social Housing in England from April 2012, published by the Homes and Communities Agency (HCA) in March 2012, where the granting of the succession takes account of the needs of vulnerable household members.

Appendices

Appendix 1: Flexible tenancy agreement