



Tenancy Policy 2012



Introduction

The Localism Act 2011 introduced a number of new flexibilities for local authorities to consider when deciding how to make best use of existing social housing and how to encourage the development of new affordable housing. Alongside this there have also been changes to Housing Benefit rules capping the maximum private rents for which benefit can be claimed, particularly for larger properties, as well as further changes to benefits in general set out in the Welfare Reform Act 2012. As a consequence the Council decided to carry out early consultation with residents from August – October 2011 on how it would respond to the new flexibilities and the difficulties residents were facing due to the benefit changes. This Housing Changes review was reported to Cabinet in December 2011 together with a number of options and a direction of travel was agreed. A set of new draft strategies and policies are now being developed for further consultation before being submitted for approval by Cabinet in December 2012.

The Council's draft Tenancy Strategy provides guidance to all social landlords in Harrow on our approach to:

- the introduction of flexible fixed term tenancies in Harrow;
- the introduction of Affordable Rents in Harrow

This Tenancy Policy sets out how the Council will introduce fixed term tenancies for new Council tenants from the date it is formally adopted. It will not apply to existing Council tenants. The policy is intended to protect residents who most need our support and recognises that the supply of housing at a low rent for life will never be sufficient to meet all of the priority housing needs in Harrow. Most new tenants who can afford to do so will be expected to consider other housing options such as shared ownership or renting privately either in Harrow or elsewhere at the end of their fixed term tenancy.

1. Background

The Localism Act 2011 introduced flexible tenancies. These are fixed term renewable tenancies of not less than 2 years and can be offered to new tenants alongside secure or assured tenancies. A new approach to rents has also been introduced for housing association properties. New build homes and a proportion of relets can now be charged higher rents of up to 80% of market rents.

Existing council and housing association tenants will not be affected by these changes unless they move to a new Affordable Rent property and will continue to enjoy their existing security of tenure and other terms and conditions including the right to buy, succession rights and the right to exchange their tenancy with another secure tenant.

The Act requires every local authority to produce a Tenancy Strategy setting out the expectations for all social landlords in the local area in relation to:

- The types of tenancies that will be granted
- The length of fixed term tenancies when these are granted
- The circumstances under which a particular type of tenancy will be granted

- The process for reviewing tenancies at the end of the fixed term and the circumstances under which a tenancy may or may not be renewed either in the same property or in a different property.

Every social landlord, including the Council is also required to have a Tenancy Policy. In addition to the above, the Tenancy Policy should contain:

- The way in which a tenant or prospective tenant may appeal or complain about the length and/or type of fixed term tenancy offered and a decision not to renew the tenancy at the end of the fixed term
- How the need of those who are vulnerable by reason of age, disability or illness, and households with children are taken into account including through tenancies which provide a reasonable degree of stability
- The advice and assistance to be given to tenants to find alternative accommodation if a fixed term tenancy is not renewed.

This Tenancy Policy sets out how the Council will use flexible fixed term tenancies of 5 years for its own housing stock. It follows the principles widely consulted upon and set out in our Tenancy Strategy.

2. Context

Harrow is an outer London borough with excellent transport links to central London, schools and access to attractive Green Belt and other open space. Along with other boroughs demand for housing is high and this is reflected in the high cost of housing both to buy and to rent privately. Unlike many other boroughs Harrow has a small supply of social housing at only 10% of the total housing stock. Twice as many people now live in the private rented sector (20%) whilst the vast majority (70%) own their homes.

As a result of Housing Benefit changes and the effects of recession many more people have been coming to the Council for help with their housing over the past year. Due to the limited supply of social housing we help most people by assisting them to remain in their current homes or by encouraging and assisting them to find alternative housing in the private rented sector. It is becoming increasingly important that our own small Council housing stock is used to its full potential to provide homes for those in the highest priority housing need. Whilst the introduction of fixed term tenancies is not likely to produce significant numbers of additional Council housing for relet it will help us to target social housing at those who most need it and makes an important contribution alongside other initiatives such as those to encourage underoccupiers to downsize.

You can find more information on the facts and figures supporting this policy at:

http://www.harrow.gov.uk/info/200003/housing_policies_and_planning_for_housing/2522/housing_evidence_base

3. Objectives

This Tenancy Policy supports a number of our overarching objectives approved by Cabinet in December 2011 as follows:

- **Deliver excellent services shaped and valued by our communities** – we have developed this strategy in consultation with the community
- **Increase the supply of housing, including locally affordable housing and make best use of the existing social housing stock** – whilst we aim to build as much additional affordable housing in Harrow as we can we know this will never meet all needs and therefore our existing social housing stock must be targeted at those who most need it
- **Continue to tackle homelessness by improving access to, and improving standards in the private rented sector** – the tenancy strategy should support and complement initiatives that promote economically realistic housing options in the private sector
- **Enhanced housing options, promoting mobility and choice** - supporting households to consider the economically realistic housing option that best meets their current housing need and to think about what that might be in the future
- **Supporting sustainable and viable communities** – this strategy should contribute to tenancy sustainment and the promotion of employment and training opportunities so that tenants are supported in adapting to the changing welfare benefits environment and the most vulnerable households are protected and supported in their home.

4. Who should be given which type of tenancy

The Council is now intending to use introductory or probationary tenancies followed by fixed term tenancies for the majority of new tenants. They will help us to ensure that our scarce Council housing stock is used in the best way to help those most in need.

We have consulted on the best way to balance the need to make the best use of our stock whilst protecting those households who most need our support and whose circumstances are highly unlikely to change in the future and/or not to penalise existing secure tenants who may need to move.

We will offer the following applicants life-time tenancies:

- Under-occupiers who have reached state retirement age and who are moving to a smaller property; and
- Older people moving into sheltered or extra care housing, older people who have reached state retirement age and are moving into a one bed general needs property.

In all other circumstances a fixed term tenancy will be granted with automatic renewal in certain circumstances. The circumstances for automatic renewal are set out in section 7 – Tenancy Reviews (page 6).

The reason for this approach is that there may be situations where for example someone no longer needs a specialist or adapted property and the granting of a lifetime tenancy in all circumstances would prevent making best use of the property. Automatic renewal where the household continues to have the same needs will provide the necessary certainty of support to vulnerable households.

5. Minimum length of Tenancy

The council will offer a 12 month introductory or probationary tenancy followed by a minimum 5 year tenancy period in most circumstances where a fixed term tenancy is being granted. We consider that a 5 year tenancy offers reasonable security to most households and is considerably more secure than the average initial tenancy granted in the private sector. In addition, we expect the majority of fixed term tenancies will be renewed because people's circumstances have not changed materially, for example the household income has not increased and there is no other more economically realistic affordable housing option and/or the household size still matches the size of property. However, reviewing the tenancy periodically will enable tenants to consider what other housing options there are or might be in the future and to discuss other opportunities for example relating to employment/training initiatives.

The Localism Act allows the granting of shorter tenancies of no less than two years in exceptional circumstances. The council will not grant a shorter tenancy period in any circumstances other than those specified below.

- Where a shorter tenancy period is required to enable redevelopment to take place
- In any of the circumstances under section 7 when considering renewal of a tenancy the tenant could move to another property but it would be unreasonable to enforce it at this time

6. Succession

In view of the limited amount of social housing in Harrow the Council will only offer discretionary succession in the following circumstances:

- Where a family member¹ has been part of the household for at least 5 years or where a carer (who is not a family member or employed as the carer) gave up accommodation to care for a minimum of 12 months, the property meets their housing needs and no alternative economically realistic housing option exists. In the situation where the property is larger than the needs of the family member or carer a suitable alternative economically realistic housing option may be the offer of a suitable social housing property on a fixed term tenancy. A succession to a fixed term tenancy should only be granted for the remainder of the life of that tenancy and renewal subject to a review when the end of the tenancy is due.

7. Tenancy Reviews and advice and assistance when a tenancy might not be renewed

The tenancy review is primarily an opportunity for the Council and tenant to consider if the current home still best meets the tenants needs and how it might be possible to meet future aspirations for example for home ownership by discussing low cost home ownership options available, savings for deposits etc and by offering advice and guidance to non working households on national and local employment and training initiatives. Based on our evidence we expect the majority of Council tenancies to be renewed.

¹ Family members include the tenant's: (i) spouse or civil partner, or the person the tenant resides with as husband or wife or as if they were civil partners; (ii) parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece, stepchild, illegitimate child as well as relationships of the half blood; and (iii) relationship by marriage or civil partnership will be treated as a relationship by blood.

All new tenancies, with the exception of life time tenancies, will be granted as fixed term tenancies and automatically renewed if the following tenant's household circumstances are unchanged since they were originally housed:

- The tenants are of state retirement age and living in a 1 bedroom general needs property;
- The tenant(s), their spouse or partner or a dependent child is disabled validated by means testing for disability benefits;
- The tenant(s), their spouse or partner or a dependent child have a severe learning disability or severe enduring mental health need validated by the relevant officer in the Council's Community, Health and Wellbeing directorate
- The tenant was a Care Leaver and is still receiving support from the Council

The Council will take the following principles into account when considering whether to renew the tenancy:

- The property should meet the current housing needs of the tenant and their household. Examples where the property is no longer suitable might be if the property is under-occupied by one-bedroom or more and an alternative suitably sized property is being offered, the property has been extensively adapted but for someone with a disability who no longer lives with the tenant and an alternative property is being offered. In these circumstances it would be reasonable not to renew the tenancy so that the property can be let to someone who needs it. Other considerations to be taken into account with regard to the suitability of alternative accommodation might include specific individual circumstances and access to family support networks ;
- The tenant's household income is sufficient to enable the tenant and their household to find other suitable accommodation either by moving into intermediate housing (low cost home ownership or sub market rent), private rented or buying on the open market. We propose using the following household income eligibility limits as an absolute income cap, that is anyone earning above these limits (including notional income from capital assets but disregarding disability benefits) would be expected to move independently into intermediate housing or the private sector either to rent or buy:

Household Size	Income Limit
1 bed	£30,000
2 bed	£38,000
3 bed	£48,000
4 bed	£60,000 ²

The information used to calculate these limits is attached at Appendix 2 and will be reviewed and updated annually.

A financial assessment will be carried out for applicants earning below these limits to determine what other affordable housing options are available;

² The income limits have been calculated with reference to local rents and on the basis that housing costs should not exceed 40% of net income (where net income is 70% of gross)

- The tenant's household has assets or savings greater than £24,000. The proposed income and savings limits are the same as will be proposed in the Councils revised Housing Allocations Scheme which would normally exclude them from being granted a tenancy;
- The tenant has breached the terms of their tenancy and failed to reach or maintain an agreement with the Council to remedy this breach. For example there are rent arrears and the tenant has not agreed to maintain an agreement to clear these or there has been serious and persistent documented anti-social behaviour.
- The tenant or a member of the household has a conviction for civil disturbance carried out in the locality of Harrow or other criminal activity such as housing fraud.

We will carry out the review at least 9 months before the tenancy is due to come to an end to allow sufficient time for a tenant to find alternative housing if the tenancy is not renewed and alternative accommodation is not to be provided.

We recognise there may be circumstances where it might be considered unreasonable to expect someone to move even if one of the above criteria apply and will consider allowing a tenancy to continue if:

- The tenant or a member of their household is suffering from a terminal illness;
- The tenant has children attending a local school at key stages of education, specifically in year 10/11 or year 12/13 and no economically realistic alternative housing is available locally.
- The tenant is a foster carer and the tenancy needs to continue to enable them to fulfil this role;
- The tenant is participating in a Tenancy Sustainment Programme or a training and employment programme and moving at this stage would prevent the tenant from completing the programme.
- The tenant makes an active and positive contribution to their local community, through for example volunteering for an approved organisation on a regular weekly basis.

In any of the above circumstances it may be appropriate to offer a shorter tenancy renewal of at least two years or a further five year tenancy depending on individual circumstances.

The Review will be carried out by trained housing officers and include offering appropriate proactive advice and assistance to find alternative accommodation. Options for alternative housing could include home ownership either outright or through the various First Steps initiatives or other government initiatives, a privately rented home either in Harrow or elsewhere or a more suitable affordable rented home either in Harrow or elsewhere. Appropriate advice on employment and training initiatives will be provided to non working households including young adults who form part of the household.

Where a Tenancy Review is being carried out with a vulnerable household, such as a Care Leaver or other vulnerable adult appropriate support arrangements will be made such as use of an advocate or advocacy service.

8. Reviews and Complaints

There are two stages at which an applicant can seek a review of any decision relating to the flexible tenancy.

Review of offer to grant a flexible tenancy

Following the service of the notice stating that on the coming to an end of the introductory tenancy it will become a flexible tenancy for a period of 5 years, the applicant can request a review of the Council's decision about the length of the period of the flexible tenancy. A review can only be requested on the basis that the term of the flexible tenancy does not accord with the Council's policy.

These reviews are likely to be very small in number as the Council will in the main be granting 5 year flexible tenancies.

A request for a review has to be made within 21 days of receipt of the notice. The Council can extend the time period for seeking such a review. The review will be conducted by a Senior Housing Manager who has had no previous involvement in the case. The applicant will be notified of the outcome of the review including the reasons for their decision within **56 days**.

Review of decision not to renew the flexible tenancy

Following the Tenancy review and after the provision of appropriate advice and assistance as set out above, the Council will serve notice where it is not going to renew a tenancy 7 months before the tenancy is due to end. The notice will state that the Council will not be renewing the tenancy on the expiry of the flexible tenancy, the reasons why the tenancy is not being renewed and explain the review process ("the First Notice"). The Council will also serve a notice 3 months before the tenancy is due to end giving the tenant not less than two months notice that the Council requires possession of the property and the date after which court proceedings may be begun ("the Second Notice"). If the tenant refuses to move when the notice period set out in the Second notice expires a court order will be applied for and the usual eviction process followed.

If a Harrow council tenant disagrees with the Council's decision not to renew their tenancy they may use the following review process. A request for a review has to be made within 21 days of service of the First notice and must be carried out and the tenant notified of the decision before the date specified in the Second notice expires.

- All applicants have the right to request general information about their tenancy review, including the facts that have been taken into account and the reason for not renewing the tenancy;
- An applicant who is unhappy with the decision should in the first instance contact the Housing Operations manager to explain why they think the decision is unreasonable. This can be done face-to-face, over the telephone, by email or letter;
- The applicant will be notified in writing whether the decision still stands and the reasons for this, usually within 5 working days;
- If the applicant wishes to pursue the matter further, they can make a request for a formal review of the decision and must do so within 21 days of service of the First

Notice. The Council will consider a review out of time if there has been a delay during the informal review. The request for a formal review may be made orally or in writing. Where the request is made orally, the Council may hold an oral hearing at which the applicant can be accompanied by an advocate or representative. The applicant will be asked to make submissions stating the reasons for the review request. The Council will seek any further information it considers necessary, including advice from other specialist advisers. This formal review will be conducted by a Senior Housing Manager who has had no previous involvement in the case. The applicant will be notified of the outcome of the review including the reasons for their decision within **56 days and by no later than the date specified in the Second Notice as the date after which proceedings for the possession of the property may be begun.**

- **The applicant also has the right to complain to the Housing Ombudsman and/or seek judicial review of the Council's decision not to renew the tenancy.**
- If the formal review upholds the decision but the tenant refuses to leave a possession order will be applied for and the usual eviction process followed.
- The Court has the discretion to refuse to grant an order for possession if the Court is satisfied that the Council has either failed to carry out the review or that the decision on the review is otherwise wrong in law.

9. Equalities

We have used the Equalities Impact Assessment completed for the Tenancy Strategy to inform this Policy which follows the principles endorsed through the consultation process. The EQIA is available on our website.

10. Reviewing the Tenancy Policy

This policy will be monitored and reviewed annually. Revisions, such as to the income and savings caps, will be authorised by the Portfolio Holder for Housing.

Appendix 2 – Income Limits

Income Limits: 18 July 2012

Bed size	Open market purchase				Shared Ownership purchase				Market rent		
	Median House Price	20% deposit required	Mortgage	Gross income required*	Assumed OMV	25% share	10% deposit	Minimum gross income required	Lower quartile rent pw	Lower Quartile Rent PCM	Gross income required
1 bed	£174,650	£34,930	£139,720	£39,920	£195,000	£48,750	£4,875	£26,000	£173	£750	£30,000
2 bed	£286,300	£57,260	£299,040	£65,440	£249,950	£62,488	£6,249	£32,000	£219	£950	£38,000
3 bed	£363,400	£72,680	£290,720	£83,063	£350,000	£87,500	£8,750	£44,000	£277	£1,200	£48,000
4 bed	£471,800	£94,360	£377,440	£107,840	£430,000	£107,500	£10,750	£54,000	£346	£1,500	£60,000

NB. Based on housing costs not exceeding 30% of gross income (which is currently equivalent to 40% of net income where net income is 75% of gross. In 2011 the gross median weekly wage of Harrow residents was £603 (£31,356 per annum) and the gross median weekly wage of Harrow residents working in Harrow was £510 (£26,520 per annum)