



Crawley Borough Council Tenancy Policy

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1 Context

1.1 The need for a Tenancy Policy arises out of a range of social housing reforms set out in the Localism Act 2011 and through changes to the regulatory standards that all social landlords are expected to meet.

1.2 The requirement to produce a Tenancy Policy is set out in the Regulatory Framework for Social Housing produced by the Homes and Communities Agency (2012). The Tenancy Standard states:

Registered providers shall offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock

1.3 In addition, the Standard also states;

Registered providers shall 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.

1.4 This policy sets out how Crawley Borough Council will use the range of options available in the Localism Act to assist in meeting its strategic aims as outlined in its Tenancy Strategy (2019 and updated in November 2022) and should be read in conjunction with this.

1.5 This policy applies to Crawley Borough Council's own housing stock and includes our approach to:

- The types of tenancy we will grant
- The circumstances in which we may grant certain types of tenancy
- Our approach to sustaining tenancies, providing support to vulnerable tenants, and preventing unnecessary evictions
- Incentives to encourage mobility and address under-occupation

2 Policy Details

2.1 This policy covers the Council's approach to the type of tenancy we will offer and how and how we will manage tenancies from 1 April 2023.

2.2 This policy aims to support sustainability in our local communities through the use of secure lifetime tenancies and proactive tenancy management. It also sets out approach to the use of social and affordable rents.

2.3 Except as described in 4.11 to 4.12 below, this policy does not cover the agreements or arrangements related to accommodation provided by the Council to people it accommodates under Part 7 of the Housing Act 1996.

3 Rents

3.1 The Council will continue to charge social rents on all properties built prior to the introduction of affordable rent tenure in 2012, and also where social rent is a planning condition.

3.2 Affordable rent will generally be charged on all new rental properties built since 2012 although it will be dependent on how the scheme is funded and in some instances will be a requirement associated with government grants. Social rent may still be provided on a scheme-by-scheme basis but this will depend on the extent of grant funding that may be available, and on the viability of the scheme.

- 3.3 Affordable rent is set at 80% of market rent and may not exceed the Local Housing Allowance (LHA) rates, it is inclusive of service charge. We will obtain a valuation for all our affordable rent properties on an annual basis which will form the basis of evaluating rents for properties.
- 3.4 Social rent is set using the Rent Standard as defined by the Regulator of Social Housing. Social rents are lower than affordable rent.
- 3.5 Service charges will be set in addition to the social rent for properties where there are shared communal areas that need to be maintained.

4 The types and lengths of tenancies granted

Flexible tenancies

- 4.1 Except as set out in section 5.9 below, Crawley Borough Council will not grant flexible tenancies on or after 1 April 2023.
- 4.2 Any flexible tenancy in existence on 31 March 2023 will continue to be a flexible tenancy until an offer of a new secure periodic tenancy is made and accepted by the tenant. Any new secure periodic tenancy granted will include provision for any arrears of rent to be transferred from the previous flexible tenancy, the tenant will need to accept this provision when the new secure tenancy is granted. Any introductory flexible tenancy in existence on 31 March 2023 will continue to be introductory and will be varied using the provisions of section 103 Housing Act 1985, so that their agreement states that at the end of the introductory period the tenancy will become periodic.
- 4.3 If the tenant fails to accept the new secure periodic tenancy, including the transfer of arrears to the new tenancy, they will remain on a flexible tenancy.
- 4.4 Where there are complexities around resolving joint tenancies if one tenant has vacated the property, this may result in a tenancy remaining as a flexible tenancy until resolution can be reached between parties.
- 4.5 Existing flexible tenancies that have a possession order associated with them or where possession proceedings or other anti-social behaviour enforcement action has been taken (including service of notices), those tenants will not be offered a new secure periodic tenancy, unless there are exceptional circumstances. In the event that the Council decides not to apply to enforce a possession order in these cases, the term of their flexible tenancy will continue and the tenancy reviewed at the end of the period.
- 4.6 The above does not affect the Council's right to seek possession based on the mandatory ground (under section 107D of the Housing Act 1985) at the end of any flexible tenancy, and the Council reserves this right accordingly.
- 4.7 The action at 4.6 will be taken only in exceptional circumstances where there has been a serious breach of tenancy during the lifetime of the tenancy.

Introductory Tenancies

- 4.8 Except as described in 4.9 to 4.13 below, introductory tenancies will be offered to all new social housing tenants and will last for a twelve month term. At the end of a successful introductory period these tenancies will become secure periodic tenancies.
- 4.9 Introductory tenancies are permissible under the Housing Act 1996. The Council adopts the use of introductory tenancies to facilitate the provision of safe, clean and attractive neighbourhoods by encouraging people to adhere to their tenancy conditions from the outset of their tenancy. They enable quicker and firmer action to deal with nuisance and anti-social behaviour, non-payment of rent and other tenancy breaches.

- 4.10 If the tenancy conditions have been breached, then we will consider taking action to end the tenancy or extend the introductory tenancy for a further six months. If, following an extension to the introductory tenancy, the tenant has still failed to keep to the terms of their introductory tenancy we will consider taking action to end the tenancy.
- 4.11 The tenant has the right to request a review of a decision to either extend or end their Introductory Tenancy.

Secure “Lifetime” Tenancies

- 4.12 Aside from accommodation offered as described in sections 4.8, 4.13 to 4.16 and 5.9 , all other people will be offered a secure periodic (or lifetime) tenancy.

Non-secure tenancies

- 4.13 In some circumstances related to decanted introductory or secure tenants, the Council may grant non-secure tenancies, this is covered in section 6.
- 4.14 Although this policy does not cover the provision of accommodation under Part 7 of the Housing Act 1996, the Council may in exceptional circumstances grant an insecure tenancy of accommodation within its stock to households granted emergency temporary accommodation under that Act.

Licences

- 4.15 The Council will offer an Excluded Licence to residents occupying the Council’s own non-self contained hostel accommodation.
- 4.16 The Council will also offer a licence in some circumstances related to decanting residents due to emergency or urgent work, this is covered in section 6.

5 Succession

- 5.1 Succession refers to the process whereby a tenancy can sometimes be passed on to another member of the family when a tenant dies.
- 5.2 The Localism Act changed the succession rights for secure tenants whose tenancy commenced after 1 April 2012. Prior to that, there was a statutory right of succession to all introductory and secure tenancies conferred on the spouse/civil partner of the tenant, who lived with that tenant at the property at the time of the tenant’s death, or if there was no spouse or civil partner, to a family member (as defined by the legislation) who lived with the tenant for 12 months prior to the tenant’s death. The Localism Act provided that these rights continued in respect of all secure tenancies which were granted prior to 1 April 2012.
- 5.3 The changes made by the Localism Act (which applies to all secure tenancies granted on or after 1 April 2012) were as follows:
- That the right of the spouse/civil partner will continue, but this will now also include co-habitees (a person who had been residing with the tenant as if married or as if in a civil partnership)
 - That if there is no spouse/civil partner/co-habitee residing at the property at the time of the tenant’s death, succession to a family member will be possible if the tenancy agreement expressly includes a term permitting this (this is a discretionary succession provision).

Tenancies granted before April 2012

- 5.4 As shown in 5.2 a tenancy can be succeeded to by a spouse/civil partner who lived with the tenant at the property at the time of the tenant's death or if there is no spouse or civil partner, a family member can succeed to the tenancy who lived with the tenant for 12 months prior to the tenant's death.
- 5.5 Only one statutory succession is permitted.

Tenancies Granted between April 2012 and March 2013

- 5.6 The Council's tenancy agreement for tenancies entered into between 1 April 2012 to 31 March 2013 includes a discretionary succession provision in line with entitlement conferred to pre-April 2012 tenancies as shown in 5.4 and 5.5.

Tenancies Granted from 1 April 2013

- 5.7 Tenancies granted from 1 April 2013 do not have a discretionary succession provision in line with 5.4 and are only be able to be succeeded to in line with legislation, by either the spouse, civil partner or co-habitee (a person who had been residing with the tenant as if married or as if in a civil partnership) who occupied the tenanted property as their only or principal home at the time of the tenant's death. Only one statutory succession is permitted.

Family members who do not have the right to succeed to a tenancy

- 5.8 The [Council's Housing Allocation Scheme](#) allows for the allocation of accommodation in certain circumstances to family or household members unable to succeed.
- 5.9 Where, upon the death of an introductory, secure periodic or flexible tenant, there is no person qualified to succeed to the tenancy but there is an immediate family member of the deceased tenant who resided with the tenant throughout the period of 5 years ending with the tenant's death, the Council may offer them a flexible tenancy. Flexible tenancies granted in these circumstances will be in respect of a property which meets their needs (i.e. not necessarily the deceased tenant's property) and for a 2-year non-renewable term. This is to give them the opportunity to plan for alternative housing and provide some short-term stability following bereavement. At the end of a 2 year flexible tenancy the council will not generally offer a new tenancy or allow a periodic secure tenancy to arise, although the Council would consider departing from this policy in exceptional cases where the Council likely owes the person the Main Homeless Duty. Appendix 1 sets out the details of the tenant's right of a review of decisions pertaining to the offer of a flexible tenancy and the decision not to offer a new flexible tenancy.
- 5.10 In cases where there is no legal right to succeed, but where the Council owes that person the Main Homeless Duty, an offer of a direct let of suitable accommodation may be made. The offer will not necessarily be in respect of the property that they are currently living in.
- 5.11 Where there is no right to succeed and the circumstances at 5.9 or 5.10 are not met, officers will be sensitive and provide support and allow reasonable time for the occupants to find alternative accommodation, which may include signposting to other agencies and other Council departments.
- 5.12 Any non-successor(s) will be charged for use and occupation of the property after the deceased tenant's tenancy has been ended and until such time they vacate the property. The charges will be at the equivalent rate of rent for that property.
- 5.13 Where a person claims that they are a successor but the Council, after considering the evidence available, decides that the person is not a successor, the Council will conduct a review of this decision via the Council complaints procedure if requested to do so by the non-successor.

Offer of alternative accommodation following succession

- 5.14 If a person succeeds to a tenancy of a property that is larger than their housing needs, or the property is in a sheltered housing scheme or the property has adaptations which are no longer required by the tenant/their household, the Council will offer an alternative property more suited to their needs.
- 5.15 Where the Council chooses to offer an alternative property more suited to their needs, any such offer will be of the type of tenancy held by the deceased tenant unless it is a five year fixed term tenancy, in which case we will offer a secure periodic tenancy.
- 5.16 We will consider enforcing the grounds set out in the Housing Act 1985 if the resident fails to cooperate with the policy requirements set out at 5.14 and 5.15.

6 Decanting tenants due to significant planned or emergency works

- 6.1 On occasion, it may be necessary to carry out extensive repair works to a property either of a planned nature or following an unplanned incident such as a fire. Where possible, these works are carried out with the tenant in situ. However, on rare occasions it may be necessary to offer alternative property on a temporary or permanent basis.
- 6.2 Tenants who are decanted will be offered a licence or non-secure tenancy dependent on the circumstances. If the decant is intended to last very short term we will usually offer a licence, if the decant is intended to last over a longer period, such as one to six months, we will usually offer a non-secure tenancy.
- 6.3 An offer of a permanent move to a like for like alternative property may be made if any of the following applies, in other circumstances the move will be temporary:
- the proposed works are likely to take more than 6 months to be completed
 - the tenant or a member of the household has a vulnerability that may be impacted by the insecurity of moving temporarily to another property

7 Mutual Exchanges

- 7.1 The Council enables tenants to gain access to opportunities to exchange their tenancy with that of another social housing tenant, by way of an internet-based mutual exchange service. Tenants may also seek to find a mutual exchange using other means.
- 7.2 Where a mutual exchange is proposed, and one or more of the tenants holds a flexible tenancy, if the exchange proceeds, immediately after the assignment we will offer the tenant/s who transferred into the property(ies) of the former flexible tenant(s) a secure periodic tenancy.

8 Under-occupation

- 8.1 The Council operates a [Under Occupation Incentive Scheme](#) which offers a financial incentive to tenants when they move to a smaller size property and the Housing Allocation Policy gives additional priority to tenants wishing to downsize.

9 Tenancy Support

- 9.1 Our tenant services are person-centred around early intervention and providing tailored support to help sustain tenancies and to meet the varying needs of our tenants who can become vulnerable at any point during the lifetime of their tenancy.

9.2 We have an in-house Tenancy Support Officer, Financial Inclusion Officer, and Older Persons Support team who along with our Housing Officers offer a number of interventions to help tenants achieve a greater degree of security including:

- Carrying out affordability assessments where appropriate prior to the letting of a new tenancy where the tenant is not currently a social housing tenant or where the tenant is being offered an affordable rent property.
- Increased support to tenants through new tenant visits for vulnerable tenants
- The provision of issue specific advice and support, including advice in relation to budgeting, managing debt, maximising income and claiming benefits
- Provision of a specialist Older Person's Support Service which includes the provision of housing related support to promote independence for tenants in sheltered housing or tenants in general needs accommodation over the age of 60, or over the age of 55 for those with a mental health or physical disability.
- Provision of additional support from the Tenancy Support Officer where the tenancy is at risk and the tenant has a need for additional support for period of time to help sustain the tenancy
- Referral and signposting to range of specialist external support agencies and services
- Advice and support from other Council departments and services

10 Preventing evictions

10.1 As far as possible the Council seeks to minimise the number of evictions that are carried out. We will work proactively to assist in sustaining tenancies with evictions usually taking place as a last resort once other informal and formal measures have been exhausted. Where evictions do take place, these are largely associated with non-payment of rent or antisocial behaviour, and our approach to proactively managing these tenancy issues are set out below as an example of our approach:

- **Income management** Our income management team seek to proactively address any payment problems as quickly as possible in order to prevent debts accruing. We encourage people to contact us with any problems that they have in paying their rent and aim to provide tailored support to try to resolve any issues preventing non-payment. We also employ Financial Inclusion Officers and refer tenants for specialist benefits advice or debt counselling. We comply with the court's pre-action protocol.
- **Anti-social behaviour** Our Nuisance and Anti-Social Behaviour team proactively tackle all neighbour and anti-social behaviour issues as quickly as possible and aim to work constructively with victims and perpetrators to try to find amicable solutions.

10.2 Where informal strategies for resolving anti-social behaviour and other tenancy breaches is not successful or possible, the proportionality of legal action will be considered to determine the most reasonable and proportionate form of action. However, where tenancy breaches continue or the breach is serious and/or there is a risk of harm to other residents or staff, action may be taken to recover possession of a property swiftly and/or to seek other legal remedies, such as injunctions.

11 Tackling fraud

- 11.1 We take a proactive approach to addressing housing fraud, this begins at sign up and includes the requirement for tenants to submit a photo to be kept on file alongside their tenancy agreement and re-checking of identification prior to signing of the tenancy. Rechecking of identification may also take place during the tenancy, in order to re-verify identity.
- 11.2 Targeted tenancy checks will be carried out where tenancy fraud is suspected to ensure that the property continues to be occupied by the tenant it was let to. We will take immediate action to recover properties that have been sub-let or that are unoccupied. This enables us to make best use of our properties to help meet housing need.
- 11.3 Where tenancy fraud is suspected a referral is made to the Council specialist fraud investigation team.

12 Exceptional circumstances

- 12.1 The Head of Crawley Homes or any other duly authorised officer, may make a decision which departs from this Policy in exceptional circumstances. Any such decision will be made having taken into account all of the circumstances.

13 Review of the Tenancy Policy

- 13.1 The Tenancy Policy will be reviewed every three years, when the Tenancy Strategy is amended, or where there has been a significant change in circumstances, legislation, or related policy.
- 13.2 Any minor changes will be made in consultation with the Head of Crawley Homes and the Portfolio Holder for Housing.

14 Consultation

- 14.1 This Policy was reviewed by Crawley Homes Tenant and Leaseholder Action Panel for discussion and comment on 30 November 2022.

15 Equality Impact Assessment

- 15.1 An equality impact assessment has been completed in respect of this policy. No negative impacts are identified. Positive impacts are identified for all protected characteristics.

Appendix A

1. Right of Review of Decisions relating to Fixed Term Flexible Tenancies

- 1.1 There is a statutory right to request a review of the following 2 types of decisions:
- A person has the right to request a review of the Council's decision to offer a fixed term flexible tenancy (or the decision to serve a notice stating that on coming to an end of an introductory tenancy it will become a flexible tenancy of a certain length), if they believe the length of the tenancy offered is not consistent with this Policy.
 - A tenant has a right to request a review of the Council's decision not to offer a new tenancy on the expiry of their Fixed Term Flexible Tenancy.
- 1.2 A person who wishes to request a review must do so before the end of the period of 21 days beginning with the day on which the notice of the decision is served.
- 1.3 The administrative arrangements for requesting and conducting a review will be set out in the offer/decision letter. The Flexible Tenancies (Review Procedures) Regulations 2012 set out the procedure to be followed and include a right for the tenant(s) / potential tenant(s) to request an oral hearing.