



Arun Housing Services Tenancy Policy

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Tenancy Policy

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1. PURPOSE

- 1.1 This policy concerns the type of tenancy that Arun District Council (ADC) will offer to new tenants and existing tenants moving to alternative accommodation owned by the Council.
- 1.2 The policy includes information relating to the Council's legal and regulatory obligations, housing allocations, starter tenancies, demoted tenancies, Family Intervention tenancies, fixed term and life time tenancies, joint tenancies, under occupation and succession rights.
- 1.3 The policy has been written to reflect changes in emphasis affecting National and Local Housing Policy including the Localism Act.2011 which places the following requirements on local authorities:-
- To develop Tenancy Strategies for their areas as part of their strategic housing role;
 - For those who are also landlords to develop Tenancy Policies;
 - Enables both local authority and RP landlords to offer fixed term or 'flexible' tenancies;
 - The legislation also makes changes to the futures succession rights of Council tenants.

The Tenancy Policy has been developed conterminously with and to reflect the Council's first Tenancy Strategy

- 1.4 The policy reflects the requirements of the Homes and Communities Agency (HCA) Regulatory Framework for Social Housing in England April 2012, attached as Appendix 1.
- 1.5 This Arun District Council Tenancy Policy, is required to include:-
- The type of tenancies that the Council will grant;
 - Where the Council as a landlord grants tenancies for a fixed term, the length of those terms;
 - The circumstances in which the Council as a landlord will grant tenancies of a particular type;
 - The circumstances in which the Council as a landlord may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property;
 - The way in which a tenant or a prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term;
 - The Council's policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, households with children, including through the provision of tenancies which provide a reasonable degree of stability;
 - The advice and support the Council will give to tenants to find alternative accommodation if they decide not to grant another tenancy;

- The Council's policy on granting statutory and discretionary succession rights, taking account of the needs of vulnerable household members.

2. SCOPE

This policy applies to all voids (vacant) homes owned by ADC and let with effect from 1st January 2013 with the exception of its stock used a temporary accommodation and temporary hostel accommodation. The tenancies of all existing secure tenants are not affected by this policy however where an existing tenant moves to an alternative Council home they may be affected.

3. RESPONSIBILITIES

- 3.1 The Head of Housing Management and Housing Services Manager will have overall responsibility for the policy with implementation being the responsibility of operational staff under their management.

4. POLICY STATEMENT

- 4.1 There is a high level of unmet need for affordable housing within the Arun District, as confirmed by the Council's Housing Strategy "Raise the Roof" and in the Housing Revenue Account Business Plan 2012-22. As part of a range of initiatives to increase the supply of affordable housing in the District, the Council believes that the use of fixed term tenancies for some new tenants will allow it to make best use of the housing stock, and contributing to reducing under-occupation. In addition government changes to welfare benefits will reduce the Housing Benefit entitlement of tenants of working age who are under-occupying their homes which it is anticipated will increase demands to move to alternative accommodation that meets their needs necessary to keep their rent payments affordable.
- 4.2 The Council has resolved to offer to all housing applicants and existing secure and assured tenants seeking a transfer to alternative Council accommodation the following types of tenancies ;-
- 4.2.1 Periodic 'lifetime' Secure Tenancies, as defined by the Housing Act 1985, will be offered to the following categories of applicants;-
1. All applicants who are offered one bedroom accommodation
 2. All applicants who are offered Sheltered Housing or housing exclusively designated for older and vulnerable people
 3. All existing secure and assured tenants moving to accommodation with less bedrooms than they currently occupy although the scope to be able to do this for those who require smaller family size accommodation is likely to be limited – please see Housing Allocations Scheme.
- 4.2.2 Fixed Term tenancies, as defined by the Housing Act 1985 and the Localism Act 2012, will be offered to the following categories of applicants ;-
1. All applicants (with the exception of those described in 4.2.1 (2) and (3) above) who are offered accommodation with two or more bedrooms

2. All disabled applicants moving to a homes that has major adaptations to meet their needs
 3. All existing secure tenants moving to accommodation with more bedrooms than they currently occupy
 4. All single adult children of a deceased tenant where they have been granted a discretionary right to succeed.
- 4.3 Fixed term tenancies will introduce a requirement to review a tenant's ongoing need for the property at the end of the tenancy and, if their housing need has changed, consider options for their future housing. This might include renewing the existing tenancy agreement, offering them an alternative Council home or assisting them to meet their own housing need in the private sector.
- 4.4 The Council is also keen to ensure that fixed term tenancies are used in a manner that does not undermine the creation of balanced, settled communities and ensures that the most vulnerable tenants are provided with the level of stability they require. This will be achieved by continuing to provide lifetime tenancies for one bedroom accommodation and homes specifically designated for older people, and making best use of homes designed for disabled people by reviewing whether a home is still needed for a disabled person when a fixed term tenancy comes to an end. In addition, to ensure stability for families, 10 year tenancy terms will be offered where a child is under the age of 5 years when the tenancy is granted.
- 4.5 Arun District Council is committed to the development of positive and supportive measures to establish good working relationships with all its tenants from the commencement of tenancy. ADC will therefore also offer a starter tenancy to new tenants. Tenants who have held a tenancy previously with another local authority or RP will not be required to have an Introductory Tenancy, as confirmed by the HCA Regulatory Framework, Appendix 1 refers. Starter Tenancies are considered to act as an incentive for new tenants to conduct their tenancies well and to speed up the legal process to end the tenancy in the event of severe and/or sustained breaches of tenancy conditions in the first 12 months of a new tenancy.
- 4.6 ADC will allocate housing applicants tenancies in accordance with its agreed Allocations Scheme and any other associated local authority letting agreements or any other specific lettings arrangements agreed from time to time.
- 4.7 ADC will consider the housing needs and circumstances of an adult child following the death of a parent who holds an Arun tenancy. Where it is considered appropriate to offer a tenancy, generally only 1 bedroom accommodation will be made available, which is expected to be an alternative home i.e. not that of the deceased parent.
- 4.8 ADC will ensure that housing applicants and tenants are well informed about their tenancy options, and in particular will ensure that tenants with Fixed Term tenancies are given early advice and support towards the end of their tenancies.

5. POLICY DETAIL

5.1 Life Time Tenancies

5.1.1 Periodic 'lifetime' Secure Tenancies, as defined by the Housing Act 1985 and ADC's adopted Secure Tenancy agreement will be offered to the following categories of applicants:-

1. All applicants who are offered one bedroom accommodation
2. All applicants who are offered Sheltered Housing or housing exclusively designated for older people
3. All existing secure tenants moving to accommodation with fewer bedrooms than they currently occupy

5.1.2 ADC will be fulfil its responsibilities as landlord and ensure that all tenants also meet their responsibilities in respect of the tenancy. Action will be taken where a tenant breaches their conditions of tenancy including, where necessary, taking legal action and seeking repossession of a property to enforce the conditions of tenancy.

5.2 Flexible Secure Tenancies

5.2.1 Flexible Secure Tenancies were introduced by the Localism Act 2011. The Act has amended the Housing Act 1985 by inserting a new section which gives Local Authorities the power to grant a flexible service tenancy for a fixed period of no less than 2 years, provided a notice is served at the beginning of the tenancy stating that the tenancy will be a fixed term tenancy. However a five year minimum tenancy terms is recommended by the HCA Regulatory Framework, Appendix 1 refers. Local authorities have the choice whether they use fixed term tenancies or not.

5.2.2 Flexible Secure Tenancies will be offered to the following categories of applicants:-

1. All applicants who are offered accommodation with 2 or more bedrooms
2. All applicants with at least one child under the age of 5 years will be offered a 10 year fixed tenancy term
3. All disabled applicants moving to a home that has major adaptations to meet their needs
4. All existing secure tenants moving to accommodation with more bedrooms than they currently occupy
5. To an adult child of a deceased tenant where there has been no previous succession providing the applicant meets the condition in section 5.10 of this policy

5.3 Length of Flexible Secure Tenancies

- 5.3.1 Flexible Secure tenancies will normally be offered for a minimum period of five years, following any introductory period, or for 10 years in the case of an applicant with a child under the age of 5 years. (aged under 5 at commencement of intro or at commencement of fixed – need to be clear)
- 5.3.2 Flexible Secure tenancies for applicants who have not been a tenant of a local authority or private Registered Provider (Housing Association) before, will be for a 6 year period, consisting of a 1 year introductory tenancy, to be followed by a 5 or 10 year flexible secure tenancy. This will be subject to the satisfactory conduct of the introductory tenancy. If another tenancy is offered at the end of the initial fixed term, it will be a fixed term tenancy for a further 5 or 10 years, dependent upon the age of children in the household at the time of the renewal.
- 5.3.3 Flexible Secure tenancies for applicants who have been a tenant of a local authority or private RP before, will be for a 5 or 10 year period, If another tenancy is offered at the end of the initial fixed term, it will be a fixed term tenancy for a further 5 years – or 10 – , dependent upon the age of children in the household at the time of the renewal.

5.4 Ending a Flexible Secure Tenancy

- 5.4.1 In the final 6-12 months of a Flexible Secure tenancy, the Council will undertake an assessment of the housing need and circumstances of the household to enable a decision whether to offer a further fixed term tenancy to be made. A Flexible Secure tenancy will not normally be renewed in the following circumstances:
- (i) Under-occupation of 1 or more bedrooms;
 - (ii) When a specially adapted property is no longer required to accommodate the disabled person for whom it was originally provided;
 - (iii) When an assessment of household income shows that the tenants can afford to meet their own housing need in the private sector.
- 5.4.2 In the circumstances defined in paragraph 5.4.1 (i) and (ii) above the tenant will be given priority as a housing applicant under the Council's Allocations Scheme to bid for alternative suitable accommodation. Where an applicant fails to identify and bid successfully for an alternative property within 6 months of being instructed to do so, the Council will then bid on the applicants behalf following which one offer of suitable alternative accommodation on a fixed term tenancy will be made.
- 5.4.3 When making a final offer of accommodation the Council will make what is considered to be the most appropriate reasonable offer at that time, taking account of the availability of vacant properties in particular locations and demand from other housing applicants. The Council may alternatively opt to bid for suitable accommodation with another social landlord.
- 5.4.4 If the circumstances defined in paragraph 5.4.1 (iii) above apply, no alternative accommodation will be offered but the tenant will be given advice and assistance to provide them with alternative accommodation in the private sector. This may include advice on their housing options, including the availability of low cost home

ownership, and privately rented housing, signposting and referral to other agencies as appropriate.

5.5 Flexible Secure Tenancy - Appeals process

- 5.5.1 When offered a Flexible Secure tenancy, the prospective tenant has 21 days to appeal against the proposed length of the fixed term. This appeal must be made in writing and can only be made on the grounds that the Council has failed to follow its own policy on the length of Flexible Secure tenancies offered.
- 5.5.2 A desk-top review of the case will be carried out by the Housing Services Manager and the tenant will be notified of the outcome of the review, or a progress report, in writing within 15 working days of receipt of the appeal.
- 5.5.3 If no new tenancy is being offered when the Flexible Secure tenancy expires, the tenant will be given 6 months written notice with reasons for the decision. The tenant has 21 days to seek a review of the decision. The review must be requested in writing, giving reasons why a review is requested. There is no limit to the grounds on which a review can be sought but in carrying out the review, the Council will have regard to whether the decision accords with this policy.
- 5.5.4 A desk-top review of the case will be carried out by the Housing Services Manager and the tenant will be notified of the outcome of the review, or a progress report, in writing within 15 working days of receipt of the appeal.
- 5.5.5 If the tenant is still dissatisfied they can request an oral hearing to review the decision. This review will be heard by a panel consisting of three Elected Members. Members will not determine appeals involving their own constituents. The tenant will be given the opportunity to present their case to the panel, including calling witnesses to speak on their behalf but may not be legally represented or be represented by an Elected Member. The Housing Services Manager or designated officer will present the case on behalf of the Council and the panel may ask questions of both sides. The panel will then withdraw to consider their decision. The outcome of the hearing will be given in writing within 15 working days of it taking place.

5.6 Introductory Tenancies -

The Council has resolved to offer Introductory Tenancies to all new housing applicants who are offered and accept Council accommodation. After a 12 month probationary period, if a tenancy is deemed to have been conducted satisfactorily, it will automatically become a secure life time or secure fixed term tenancy in accordance with the details contained within this document. The following applicants are however not required to complete a probationary period and therefore will not be offered Introductory Tenancies:-

- Applicants who have previously held local authority or Registered Provider tenancies and conducted them satisfactorily
- Tenants from another social landlord who move to an Arun property by way of mutual exchange

5.7 Demoted Tenancies

- 5.7.1 The Council uses Demoted Tenancies as one of the ways that it tackles anti-social or nuisance behaviour. The Council's Housing Anti-Social Behaviour Policy refers. A Demoted Tenancy is a tenancy created by order of a Court. It lasts for one year. The tenants secure tenancy is replaced with a less secure 'demoted' tenancy, by a Demotion Order from the Court.
- 5.7.2 During the demotion period the tenancy will be monitored and if deemed to have been conducted satisfactorily and the Council has not served a Notice to seek possession of the property, the tenancy will automatically revert to a Secure Tenancy after twelve months.
- 5.7.3 During the demotion period, the Council may decide to end the tenancy if any tenancy conditions are breached, for example:
- 5.7.4 Reviewing a decision to end a Demoted Tenancy

The demoted tenant has the right to ask for a review of the Council's decision to end their tenancy; however if the Council serves a notice to end the tenancy the tenant must request a review within 10 working days otherwise they will lose their right to a review.

5.8 Joint Tenancies

A joint tenancy is where two or more people are tenants under a written agreement or legal variation/deed of assignment. As joint tenants they have equal rights to occupy the home and are therefore jointly and individually responsible for conforming to the responsibilities connected with the tenancy. The Council expects to offer a joint tenancy to partners, on request (including same sex partners) at the commencement of a tenancy, irrespective of their legal status, providing the conditions in the Allocations Scheme is met and they are joint applicants). The Council may also consider requests from siblings but providing they can establish that the arrangement is intended to be a long standing one

- 5.8.1 The Council generally expects to create a joint tenancy by assignment and is under no obligation to grant a joint tenancy if the original sole tenant requests one. Granting a joint tenancy is at the Council's discretion. However The Council will not unreasonably withhold permission. In considering the request the Council will ask the sole tenant and the person wishing to become a joint tenant with the current sole tenant, to complete a joint tenancy request. If the couple are not married or do not have a civil partnership, it will be considered whether the relationship is long-term (over one year) and whether there are any reasons why it would not be appropriate to award a joint tenancy, for example if there are outstanding rent arrears or the accommodation is under occupied. Further information is included in Appendix 2.

5.9 Under occupation

The Council recognises that good quality affordable housing is in short supply across the district. The Council is therefore committed to making the best use of its own housing stock and aims to minimise the number of households who are under occupying their Council home.

5.9.1 The Council will therefore adopt a revised under occupation scheme to encourage existing secure lifetime tenants to move to smaller accommodation. The scheme will be developed in consultation with existing tenants, particularly those that are under occupying, and will be effectively publicised.

5.10 Housing Allocations

5.10.1 Council homes will be allocated in accordance with the Council's Allocations Scheme and through the Choice Based Lettings system.

5.10.2 The Council reserves the right to refuse a housing application and not offer the applicant(s) a tenancy as defined in the Allocations Scheme.

5.11 Succession

5.11.1 The Localism Act 2011 has amended the succession rights of all new secure tenancies (including those with flexible tenancies). From 2nd April 2012, there will only be one statutory right of succession for a spouse, partner, or civil partner. The statutory right of succession for other family members has been removed for new tenants but existing tenants' right to succession (for tenancies granted before 1st April 2012) will not be affected.

5.11.2 The right to succeed to a tenancy only exists if the claimant qualifies as a successor and has lived with the tenant at the time of death and occupies the property as their only or principal home. For tenancies granted from 1 April 2012, only spouses, partners, and civil partners will have this statutory right.

5.11.3 When a succession occurs the following obligations arise:

- where the successor was previously a joint tenant, they will be legally liable for any outstanding rent arrears and debts relating to the property;
- where the previous tenant was a sole tenant, any existing rent arrears and debts will form part of the deceased tenant's estate, although the successor may be willing to pay any monies owed;
- any legal notices applying to the tenancy still take effect;
- all the rights related to the tenancy apply to the successor;
- the successor inherits any rights to compensation for the previous tenant's improvements.

5.11.4 In recognition that there may be circumstances when it is appropriate to allow a family member to remain in the family home after the tenant's death or for alternative accommodation to be offered, the Council has decided to consider requests only from adult children (included adopted children) without dependent

children providing the individual is over 18 years and has been living with the late tenant for a minimum period of 5 consecutive years prior to the tenant's death.

- 5.11.5 Proof of residence must be provided by the applicant via documents such as the electoral register or by official letters implying residence including utility bills, wage slips or driving licence. The applicant is also required to produce an original death certificate and apply in writing to succeed to the tenancy or be considered for alternative accommodation within 3 months of the death of the tenant.
- 5.11.6 If the current accommodation is considered to be unsuitable for the family member's needs (for example specifically designated for an older or disabled person) or under-occupied with one or more bedrooms not required, an alternative tenancy will be offered. When an alternative tenancy is offered this will either be a Secure Tenancy or a Flexible Secure tenancy, in accordance with this policy for the use of such tenancies.
- 5.11.7 Where it is considered reasonable that the adult child remain in the accommodation if there has been no previous succession then the Council will recognise a succession to the tenancy by means of offering either a Secure or Flexible Secure Tenancy. Alternatively if there has previously been a succession and a new tenancy is offered this will also be a new Flexible Secure tenancy, in accordance with this policy for the use of such tenancies.
- 5.11.8 Where the Council have commenced legal or enforcement proceedings for anti-social behaviour and there is substantive evidence that the family member or a member of their household has behaved inappropriately in respect of their conduct whilst living with the deceased, a succession or new tenancy of either the existing home or alternative accommodation will be offered.
- 5.11.9 If more than one family member applies for the tenancy and cannot agree who should succeed, neither a succession nor new tenancy of either the existing home or alternative accommodation will not be offered.
- 5.11.10A qualifying statutory successor (spouse, partner, or civil partner only) will be asked to sign a deed transferring the interest in the tenancy to them. The successor will be liable for rent from the date of death where the successor was previously a joint tenant and they are legally liable for any outstanding rent arrears and debts relating to the property. Where the previous tenant was a sole tenant, any existing rent arrears form part of the deceased tenant's estate or alternatively the successor may be willing to clear the arrears.
- 5.11.11 Statutory successors will also be asked to clear any outstanding debts relating to the property. The executor for the late tenant's estate will also be pursued for these debts.
- 5.11.12 When the Council considers a succession request, the applicant will be required to pay for their use and occupation of the property whilst the issue of their status is resolved. This will be calculated on a daily basis by apportioning the weekly rent due. Applicants will also be asked to repay some or all of any rent arrears and other debts owed by the late tenant.

5.12 Appeals and succession

5.12.1 An applicant's appeal against the Council's decision concerning a claim for succession or alternative accommodation must be made within 21 days of the Council's decision. A desk-top review of the case will be carried out by the Housing Services Manager or other relevant officer and the tenant will be notified of the outcome of the review, or a progress report, in writing within 15 working days of receipt of the appeal. .

5.12.2 If the applicant is still dissatisfied they can request an oral hearing to review the decision. This will be heard by a panel consisting of 3 Elected Members. Members will not determine appeals involving their own constituents. The tenant will be given the opportunity to present their case to the panel, including calling witnesses to speak on their behalf but may not be legally represented or be represented by an Elected Member. The Housing Services Manager, or other relevant officer, will present the case on behalf of the Council and the panel may ask questions of both sides. The panel will then withdraw to consider their decision. The outcome of the hearing, or a progress report, will be given in writing within 15 working days of it taking place.

5.13 Tenancy Fraud

The Council will work with other agencies to recover unlawfully sublet homes and will take swift action on discovering that a property has been unlawfully sublet. Tenancy audits will also be carried out from time to time and staff will receive appropriate training to carry out such audits.

5.14 Advice and Information

The Council will openly publicise and explain its Tenancy Policy clearly to existing and potential tenants, local authority partners and other stakeholders.

5.15 Payment of Rent, Deposits and References

The Council does not require applicants for housing to pay a deposit, but payment of rent in advance is encouraged in accordance with the terms of the tenancy agreement. The Council will give information and advice to tenants on how to pay their rent throughout their tenancy. The Council does not require applicants to provide references, however the Council may liaise with other statutory and voluntary agencies to ensure that an applicant will be able to sustain a tenancy independently and, if not, will have the necessary support.

6. SAFEGUARDING VULNERABLE ADULTS

6.1 The Council recognises that 'vulnerable adults' for example someone who is or may be at risk, in need of care and support services or may be unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation, may be less likely to understand the implications of accepting or refusing a Council tenancy. The Council will therefore take appropriate action to

advise and protect vulnerable adults when a tenancy is offered, accepted or refused.

7. SAFEGUARDING CHILDREN

The Council is committed to the wellbeing and safeguarding of children and young people and recognises that there may be sometimes be exposed to risk within a family setting e.g. where Domestic Violence, or Anti Social Behaviour occurs. We will take all reasonable steps to protect children where staff consider there is cause for concern working in partnership and with guidance from social services and other agencies. The Council will meet its obligations as confirmed by the West Sussex Child Protection Procedures.

8. REVIEW

This policy will be reviewed after it has been in operation for 12 months and then every 5 years thereafter. Amendments will be subject to consultation with tenants.

9. COMMUNICATION PROCESS

- 9.1 The adoption of this policy will be notified to staff. Training will be arranged for all relevant staff. A copy will also be placed on the internet and intranet. Information will be included in the Residents' Newsletter and when properties are advertised for letting.
- 9.2 The Council will ensure that its existing tenants are aware of the impact of this policy should they apply to move to alternative Council accommodation.

10. FEEDBACK

- 10.1 Anyone who is dissatisfied with any aspect of the services provided by ADC has the opportunity to seek redress through the Council's Complaints procedure.

11. CONFIDENTIALITY AND ACCESS TO INFORMATION

- 11.1 The Council holds personal details of applicants and residents through application forms, home visits, and general correspondence which are kept entirely confidential. These are dealt with in line with the Data Protection Act 1998. (Data Protection and Access to Personal Information Policies refer)

.Appendices

Appendix 1 - Homes and Communities Agency (HCA) Regulatory Framework for Social Housing in England April 2012

<http://www.homesandcommunities.co.uk/ourwork/regulatory-framework>

Appendix 2 - Rejecting a request for Joint Tenancy

Reasons for rejection of a request for a Joint Tenancy are likely to be but are not limited to;-

- (a) There are outstanding rent arrears or other housing debt associated with the existing sole tenancy. Note this condition is only expected to be waived in exceptional circumstances.
- (b) An assignment of the existing tenancy has already taken place(with the exception of a Mutual Exchange)
- (c) A succession of the existing tenancy has already taken place
- (d) The accommodation is under occupied by one or more spare bedroom
- (e) The person requesting a joint tenancy (i.e not the sole tenant) would not normally be allocated a tenancy of the type of accommodation concerned e.g. a person under pensionable age requesting a tenancy of sheltered housing or accommodation designated for the elderly, or a person with no support needs requesting supported housing, or a person requesting a tenancy of a property substantially adapted to meet the needs of the current sole tenant,.
- (f) Where the accommodation was originally let for employment reasons

- (g) A notice of seeking possession has been served on the sole tenant and is still valid.
- (h) A current possession order exists against the sole tenant.
- (i) The proposed joint tenant has engaged in anti-social behaviour or caused a nuisance or annoyance, either whilst at a ADC property, in the vicinity of a ADC property, or against a staff member.
- (j) The proposed joint tenant has not lived at the property for more than one year (proof via Council Tax, Electoral Role, DSS, HB, utilities bills etc).
- (k) The proposed joint tenant is not intending on using the property as their only or principal home.
- (l) The proposed joint tenant owns or has a legal interest in a property elsewhere and can be reasonably expected to live in or continue to occupy it
- (m) False or misleading information has been provided in support of the application for housing.
- (n) The proposed joint tenant has been convicted of a serious crime against the person (drug abuse, violence etc).
- (o) The proposed joint tenant is under 18 years of age.