

## Tenancy Policy

### 1. Introduction

Our vision is to be the leading community provider of affordable homes in Kent. We will support this by ensuring as many people as possible have a warm, well maintained, affordable home that evokes personal pride.

We aim to offer stability to enable residents to invest in their home and their community, but we also need to make the best use of our homes for our communities and for those in need of affordable housing. We will use fixed-term tenancies and Affordable Rents<sup>1</sup> to enable us to ensure our residents have the right home for their needs.

### 2. Rent

We will comply fully with the Regulator of Social Housing's regulatory framework for setting rents. West Kent will usually offer customers a property with either:

- a 'social rent' (target rent in line with national formula)
- an 'Affordable Rent' (up to 80% of full market rent, with reference to the Local Housing Allowance), or
- a rent structured under an agreed private finance initiative.

The use of Affordable Rent is to ensure we can continue to provide new affordable housing to respond to housing needs in communities.

We aim to ensure that available properties in local authority areas are a mix of rent types so that a balance is created within our communities. West Kent will annually review the availability of rent types by property type and location to assess how the mix of rent types is maintained.

All tenancy types can be offered at either a social target rent or at an Affordable Rent.

### 3. Affordability assessment

For all new and renewing tenants, an affordability check may need to be carried out. The check will be based on the tenant's income and expenditure including rent and estimated bills for the new property. The check will ensure the prospective tenant is clear about the costs of running a home and sustaining their tenancy.

If a tenant cannot afford to rent a property with reasonable bills, we will be unable to offer the property to them. They will be advised to seek money, budgeting and employment advice.

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<sup>1</sup> An Affordable Rent is a rent charged up to 80% of the market rent.

We will work with all our tenants to signpost for employment and training guidance, debt advice and money management as appropriate.

#### 4. Types of tenancies

We will use a range of tenancies depending on the nature of the accommodation and customer types; for example, some supported schemes will have specific tenancy clauses that state the tenant must need the support service provided. The different types of tenancies to be used by West Kent are specified below.

Tenancy Type	Offered to
Fixed-term tenancy 2 – 5 years	<ul style="list-style-type: none"> <li>All new general needs tenancies</li> <li>Customers with a previous assured tenancy if this was issued after April 2012</li> <li>All adapted<sup>2</sup> homes two bedroom and above</li> </ul>
Licence agreement	<ul style="list-style-type: none"> <li>Customers in rooms in short term hostel accommodation</li> <li>Customers using garages or parking spaces</li> </ul>
Assured shorthold tenancy 6 months – 3 years	<ul style="list-style-type: none"> <li>Customers living in intermediate market rented properties</li> <li>Customers in supported housing move-on schemes</li> <li>Customers living in temporary accommodation</li> <li>Customers with limited leave to remain in the UK, but with rights to social housing and benefits</li> <li>Customers whose property has been purchased via the Mortgage Rescue scheme</li> <li>Customers who are in priority housing need but can only be offered a 6/12-month assured shorthold tenancy while they resolve a legal interest in another property</li> </ul>
Starter tenancy (assured shorthold tenancy) 12 months	<ul style="list-style-type: none"> <li>Customers who have not held a tenancy with a social landlord immediately before moving into the vacant home</li> </ul>
Assured tenancy	<ul style="list-style-type: none"> <li>Customers with an existing assured non-shorthold tenancy with a registered provider who are transferring to a West Kent owned property if this was issued before April 2012</li> <li>Customers living in specific Extra Care and Emerald schemes<sup>3</sup></li> </ul>
Best interest tenancies and tenancies under trust	<ul style="list-style-type: none"> <li>Customers who are aged 16 or 17</li> <li>Applicants without capacity to accept a normal tenancy</li> <li>Where it is appropriate, and the tenant has the appropriate level of support in place to sustain the tenancy</li> </ul>

<sup>2</sup> Adapted means homes with large adaptations such as flush floor shower, through floor lift where the needs of the incoming tenant matches the adaptations. This will not include minor work such as grab rails which will remain in place.

<sup>3</sup> Beeches, Bowles Lodge, Copperfields, Spires, Strawberry Hill, Montgomery Court, White Oak Court, Hollybush Court

## **5. Starter tenancies**

We will use starter tenancies (assured shorthold tenancies) to enable new tenants to fully understand their responsibilities and for us to assist them in building a sustainable tenancy.

The starter tenancy is for 12 months and this will normally automatically convert into a fixed-term tenancy or an assured tenancy if the starter tenancy is conducted satisfactorily. Starter tenancies can be ended before the 12 months where there are breaches of tenancy.

We will give a starter tenancy to all new tenants offered housing who have not held a tenancy with a social landlord immediately before moving into the vacant home.

We will not usually offer starter tenancies to:

- Applicants who are currently an assured or secure tenant of any local authority or registered provider
- Current West Kent assured tenants who are moving to another West Kent home
- Current West Kent tenants renewing their fixed-term tenancy

Where there are breaches to the tenancy during the 12 months the tenancy can be extended or failed. Extensions can only be granted for an additional six months from the end of the 12-month period and there is a review process in place for tenancy failures (refer to Tenancy Panel Terms of Reference).

Tenants with starter tenancies cannot carry out mutual exchanges or apply to move to another West Kent property during the period of the starter tenancy. Consideration can be given on a case by case basis where it may be appropriate to pass a starter tenancy early to facilitate an urgent move.

## **6. Fixed-term tenancies**

A fixed-term tenancy is an assured shorthold tenancy granted for a fixed period. We will offer a fixed-term tenancy for five years for:

- All new general needs tenancies
- Any property that has significant disabled adaptations that has two or more bedrooms

The Tenancy Standard<sup>4</sup> created a protection for most assured<sup>5</sup> tenants that they shall be granted a tenancy with no less security, where they choose to move to another social rented home, whether with the same or another landlord. However, it does not apply to:

- assured tenancies created since April 2012, and / or
- tenants transferring into a property let at an Affordable Rent

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<sup>4</sup> Section 2.2.8 of the Homes and Communities Agency Tenancy Standard which now falls under the Regulator of Social Housing

<sup>5</sup> 'assured' includes assured non-shorthold, secure and protected tenancies.

## **7. Renewal of fixed-term tenancies**

We will provide a clear and transparent renewal process. See our website.

All fixed-term tenancies must be reviewed before the fixed term comes to an end. A review of whether the tenant's circumstances have changed over the period of the fixed term will commence 12 months before the expiry of the tenancy. The tenant will be notified of the decision at least six months before the expiry date.

We will renew a fixed term tenancy where:

- The type and size of accommodation remains suitable for the tenant's needs
- The tenant has completed an affordability assessment and is unable to afford open market accommodation
- The property is adapted for someone with a disability and the household still needs that size of accommodation and level of adaptation
- The tenant has kept to the tenancy conditions
- The tenant has kept their home in a good condition
- The tenant has a clear rent account and no history of persistent arrears.

There are circumstances where we will not renew a fixed-term tenancy. We will discuss this with the tenant at sign-up, so they are aware what they need to do for the tenancy to be renewed. Where the tenant is struggling to meet these expectations, we will provide opportunities for the tenant to access support throughout the tenancy to give them the best chance for the tenancy to be renewed.

All tenants will be informed of the decision of their tenancy review six months before the end of the tenancy. If the tenancy is to end, we will again write formally two months in advance requesting vacant possession on the termination date.

All tenants not being offered another fixed-term tenancy will have the right for this decision to be reviewed. The review process will be passed through the Tenancy Panel as set out within the Tenancy Panel terms of reference.

At the end of a fixed-term tenancy the rent charged to the property may also be reviewed. It may be appropriate for a household on social rent to be offered a new tenancy at an Affordable Rent. Those properties already let at an Affordable Rent will be re-assessed against the current market levels.

## **8. Mutual exchanges**

Tenants with a fixed-term tenancy usually have the right to carry out a mutual exchange.

Where an assured tenant wishes to exchange with a fixed-term tenant, to retain their assured status this exchange is completed through the surrender and re-grant of tenancies.

This means that current assured tenants will be re-granted an equivalent tenancy. Fixed-term tenants will be re-granted a five-year fixed-term tenancy where they have more than two years

remaining on their fixed term, or a two-year fixed-term tenancy where there is less than two years remaining on their fixed term (subject to satisfactory checks set out in section seven).

Where two fixed-term tenants want to exchange and one or both has less than two years left of the fixed term, this will be completed through the surrender and re-grant of tenancies. Where there is less than two years left until the end of the tenancy, the tenant will be granted with a two-year fixed-term tenancy. Where there is more than two years left until the end of the tenancy, a five-year fixed-term tenancy will be granted.

Any other mutual exchange will continue to take place by reciprocal assignment of tenancy in the usual way. Where an exchange takes place by reciprocal assignment, the principle remains that each tenant steps into the shoes of the other and this applies to all features of the tenancy, including its statutory type (secure or assured), its periodic or fixed-term nature, and its rent level (social or affordable).

## **9. Succession**

There is usually only one right of succession. Fixed-term tenants have the same succession rights as assured tenants as set out in our Succession Policy. Fixed-term tenants will succeed the remainder of the fixed-term.

## **10. Higher income tenants**

The Housing and Planning Act 2016 allows housing associations to charge market or near market rents for higher income tenants (Pay to Stay).

Higher income tenants are defined as households earning above £31,000 (in Kent) however we reserve the right to raise the income threshold and apply tapers as appropriate to determine the rent level.

We will provide clear information for any household applying or transferring to our homes of the implication of Pay to Stay, explaining how the rent is determined.

## **11. Delegated Authority**

The Executive Team has delegated authority for the issuing of tenancies to officers, and the signing and serving of legal notices to managers. Any tenancy ending by way of eviction must be authorised by the Housing Director and Chief Executive, or two directors where the Chief Executive is absent.

## **12. Review**

This policy will be reviewed by the end of 2021 unless changes in legislation or standard require otherwise.