

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'¹ to enable us to ensure our residents have the right home for their needs.

2. Rent

We will comply fully with the Homes and Communities Agency 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 new and renewing tenants, an affordability check will 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.

¹ An 'affordable rent' is a rent charged up to 80% of the market rent

If a tenant cannot afford to rent a property with reasonable bills, we will be unable to offer *Places to live. Space to grow.* the property to them. They will be advised to seek money, budgeting and employment advice. 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 two – five years	<ul style="list-style-type: none"> All new general needs tenancies All adapted² homes two bedroom and above
Licence agreement	<ul style="list-style-type: none"> Customers in rooms in short term hostel accommodation Customers using garages or parking spaces
Assured shorthold Tenancy six months – three years	<ul style="list-style-type: none"> Customers living in intermediate rented properties Customers in supported housing move-on schemes Customers living in temporary accommodation Customers with limited leave to remain in the UK, but with rights to social housing and benefits Customers whose property has been purchased via the Mortgage Rescue scheme Customers who are in priority housing need but can only be offered a six/twelve month assured shorthold tenancy while they resolve a legal interest in another property
Starter tenancy (assured shorthold tenancy) twelve months	<ul style="list-style-type: none"> Customers who have not held a tenancy with a social landlord immediately before moving into the vacant home
Assured tenancy	<ul style="list-style-type: none"> Customers with an existing assured non-shorthold tenancy with a registered provider who are transferring to a West Kent owned property Customers moving into our Emerald accommodation
Assured protected tenancy	<ul style="list-style-type: none"> Existing West Kent assured protected tenants pre-1989 who transfer to another West Kent owned property
Best interest tenancies and tenancies under trust	<ul style="list-style-type: none"> Customers who are aged 16 or 17 Applicants without capacity to accept a normal tenancy Where it is appropriate and tenant has the appropriate level of support is in place to sustain the tenancy

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

5. Starter tenancies

We will use starter tenancies (assured short hold 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 twelve 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 twelve 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 twelve months the tenancy can be extended or failed. Extensions can only be granted for an additional six months from the end of the twelve month period and there is a review process in place for tenancy failures.

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 Homes and Communities Agency Tenancy³ Standard created a protection for most assured⁴ tenants that 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.

³ 2.2.8 Registered providers shall grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 comes into force, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord. (This requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

⁴ 'assured' includes assured non-shorthold, secure and protected tenancies.

However it does not apply to:

- assured tenancies created since April 2012, and / or
- tenants transferring into a property let at an 'affordable rent'

7. Renewal of fixed term tenancies.

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

All fixed-term tenancies must be reviewed before the fixed term comes to an end. In most cases the tenant's circumstances will not have changed significantly, and the tenancy will have been conducted satisfactorily. A review of whether the tenant's circumstances have changed over the period of the fixed-term will commence twelve 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 flexible 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, in order 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, the tenant will be granted with a five-year fixed-term tenancy.

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

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.

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. Equality and Diversity

An equality impact assessment has been completed and is published with this policy.

12. Review

This policy will be reviewed by the end of 2019 unless changes in legislative or standard require otherwise.