



Medway Council Landlord Services Tenancy Policy

1 Introduction

- 1.1 All social landlords are required to publish a tenancy policy, setting out the types of tenancy that will be offered, and key aspects of how these tenancies will be managed.
- 1.2 Medway Council (the Council) Landlord Services has developed this Tenancy Policy in accordance with Medway Council's Tenancy Strategy which sets out the Council's expectation of all social landlords in the area – including the Council as a landlord.

2 Purpose

- 2.1 The purpose of this policy is to set out how Medway Council Landlord Services will manage its tenancies in respect of:
 - The types and lengths of tenancies Medway Council will offer (section 5)
 - The circumstances governing which type of tenancy will be offered (section 6)
 - How a tenant can bring a tenancy to an end (section 7)
 - Rents (section 8)
 - Medway Council's approach to tenancy management (section 9)
 - Medway Council's approach to tackling tenancy fraud (section 10)
 - Medway Council's approach to tenancy sustainment (section 11)

3 Scope

- 3.1 This Policy extends to all Medway Council Landlord Services operational areas and Medway Council Tenants

4 Legislation and Guidance

- 4.1 This Policy has been written with reference to the following Legislation, Guidance, and Policy

4.2 **External**

- Housing Act 1985
- Housing Act 1996
- Localism Act 2011
- Equalities Act 2010
- The Flexible Tenancies (Review Procedures) Regulations 2012
- The Prevention of Social Housing Fraud Act 2013
- The Homes & Communities Agency Tenancy Standard 2012
- CIH Good Practice Guide – Tenancy Policy
- Secure Tenancies (Victims of Domestic Abuse) Act 2018
- Kent Homechoice Scheme

4.3

Internal

- Medway Council Allocations Policy 2012
- Medway Council Tenancy Strategy
- Medway Council Rent Setting Policy
- Various Medway Council Landlord Services operational policies such as Anti-Social Behaviour, Rent Arrears, Mutual Exchange, Succession, Tenancy Fraud Policy

5 The Types of Tenancies Medway Council will offer

5.1 Medway Council Landlord Services will offer to new tenants, or to existing tenants transferring within Medway Council housing stock, the following types of tenancy:

5.2 Introductory Tenancy

5.2.1 An Introductory Tenancy is a fixed term tenancy for 12 months and can be extended at the Council's discretion to 18 months (no further extension is permitted).

5.2.2 The Terms & Conditions of an Introductory Tenancy are broadly the same as for a Secure Tenancy with some key exceptions. Introductory Tenancies do not include:

- The Right to Buy
- The right to a Mutual Exchange
- The right to carry out improvements
- The right to take in a lodger

5.2.3 All prospective tenants are informed before sign-up if they are to be offered an Introductory Tenancy and the terms and conditions explained.

- 5.2.4 Introductory Tenants are required to take part in a minimum of 3 review meetings during the year, normally at 6 weeks, 6 months and 9 months from the tenancy start date. The purpose of these visits is to ensure that the tenant is able to manage their tenancy and maintain their home, and that all other terms of the tenancy are being met.
- 5.2.5 Where needs are identified, Landlord Services will attempt to provide or facilitate appropriate support to help tenants maintain their Introductory Tenancy.
- 5.2.6 At the end of the 12 month period, an Introductory Tenancy will automatically convert to either a Flexible Tenancy or a Secure Tenancy. The only exceptions to this are where a decision has been made to extend the tenancy, or to seek possession of the property.
- 5.2.7 Following review, Landlord Services may extend the Introductory Tenancy by a further 6 months if there is any breach of the tenancy conditions. Tenants have the right to request a review of this decision.
- 5.2.8 Following review, Landlord Services may decide not to allow an Introductory Tenancy to convert, and the tenant will be required to move out. Tenants do have a right to have this decision reviewed by a senior manager within the Landlord Services Team.
- 5.2.9 Introductory Tenancies can be brought to an end more easily than Secure Tenancies, and provided the correct processes have been followed, a Court must grant possession to the Council.

5.3 Flexible Tenancy

- 5.3.1 The Localism Act 2011 gives Local Authorities the power to offer flexible tenancies for a certain term (i.e. a fixed term tenancy) to some social tenants.
- 5.3.2 Flexible Tenancies will be for a 5 year period, beginning when the Introductory Tenancy (if any) comes to an end.
- 5.3.3 Apart from the fixed term, tenants with Flexible Tenancies have the same status as tenants with Secure Tenancies, including the following rights:
- To remain in occupation for the duration of the Fixed Term, provided the Terms & Conditions of the tenancy are met
 - Right to Buy

- Succession rights on death of the tenant, provided there has been no previous succession
- Mutual Exchange
- Take in lodgers or sub-let part of the property
- Be consulted on matters that affect their tenancy
- Carry out improvements (subject to consent)

The only exception is that Flexible Tenants do not have a right to claim compensation for any improvements carried out to the property.

- 5.3.4 Flexible Tenancies will be reviewed approximately 9 months before the fixed term is due to expire. The review will determine whether or not a further flexible tenancy is issued.
- 5.3.5 Factors taken into account in the Flexible Tenancy review will include but not be limited to:
- Household income and financial resources - amounts used to test 'eligibility' will mirror those used in the Housing Allocations Policy.
 - Household composition – for example it may not be appropriate to issue a further tenancy at the same property if the property is under/over-occupied.
 - The tenants participation in the review process – tenants will be expected to cooperate with the review process (attendance at review meetings, provision of information etc.), and failure to do so without good reason may result in a further tenancy not being offered.
 - General conduct of the tenancy (only to be used in extreme situations such as serious rent arrears or ASB cases).
- 5.3.6 Following review, the options available will be to
- Offer a further Flexible Tenancy at the same property
 - Offer a further Flexible Tenancy at a different property
 - Offer a Secure (lifetime) Tenancy
 - Not offer any further tenancy, and require the tenant to vacate
- 5.3.7 Further Flexible Tenancies will normally be for a further 5 years. The Council may offer a reduced period of 2 years where it is considered necessary in order to balance the need of the household against local housing demand. For example where it is likely that the household composition will change significantly within the next two years.
- 5.3.8 All decisions will be made at least 6 months before the Flexible Tenancy is due to come to an end, and will be communicated in writing via a Decision Notice, with full explanation given for the decision reached.

- 5.3.9 If the decision is not to offer a further tenancy, the Decision Notice will include details of advice and assistance such as housing options advice available.
- 5.3.10 For all options (except where a further Flexible Tenancy is offered at a different property) tenants will have a right to request a review of the decision, and the review process will be in line with The Flexible Tenancies (Review Procedures) Regulations 2012. Details of how a tenant can request a review will be clearly explained in the Decision Notice.
- 5.3.11 Where a further Flexible Tenancy is offered at a different property, any appeal by the tenant would need to be by way of judicial review.

5.4 Secure Tenancy

- 5.4.1 A Secure Tenancy is the traditional Council 'lifetime' Tenancy. It includes the following rights:
- To remain in occupation indefinitely, provided the Terms & Conditions of the tenancy are met
 - Right to Buy
 - Succession rights on death of the tenant, provided there has been no previous succession
 - Mutual Exchange
 - Take in lodgers or sub-let part of the property
 - Be consulted on matters that affect their tenancy
 - Carry out improvements (subject to consent) and be compensated for certain improvements

5.5 Demoted Tenancy

- 5.5.1 A Demoted Tenancy is a Flexible or Secure Tenancy that has been 'demoted' by a Court Order to a tenancy with the status of an Introductory Tenancy.
- 5.5.2 Medway Council will consider the use of Demoted Tenancies as part of its response to anti-social behaviour.
- 5.5.3 Demoted Tenancies remain in force for 12 months. A Demoted Tenancy will be monitored closely during this period, and if the tenancy has been conducted satisfactorily it will revert to its original status i.e. Flexible or Secure Tenancy.

6 The circumstances governing which type of tenancy will be offered

- 6.1 An Introductory Tenancy will be offered to all new tenants, unless immediately before the tenancy was entered into the tenant was already a flexible, secure or assured tenant of Medway Council or another social landlord.
- 6.2 A Flexible Tenancy will be offered to all new tenants (following the Introductory Tenancy, if applicable), **with the following exceptions**
- 6.2.1 Existing Medway Council tenants transferring within Council stock who have a Secure Tenancy that was granted **before 1 April 2012**, will be offered a Secure (lifetime) Tenancy.
- 6.2.2 Existing Medway Council tenants transferring within Council stock who have a Secure Tenancy that was granted **after 1 April 2012**, will be offered either a Secure (lifetime) Tenancy, or a Flexible Tenancy, depending on the reason for the move, as set out below
- If the move is at the choice of the tenant, via successful bidding under the Choice Based Lettings system e.g. to alleviate overcrowding or to otherwise improve the tenants housing, a Flexible Tenancy will be offered.
 - If the move is a 'management transfer' due to reasons such as permanent decant, a secure tenancy will be offered.
- 6.2.3 Under the Secure Tenancies (Victims of Domestic Abuse) Act 2018 a Secure (lifetime) tenancy will be granted to a person who is or was a tenant of some other dwelling-house under a Secure or assured tenancy (whether as the sole tenant or as a joint tenant), and the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and the new tenancy is granted for reasons connected with that abuse.
- A Secure (lifetime) tenancy will be granted to a person who was a joint tenant of that dwelling-house under an old-style secure tenancy, and the person or a member of the person's household is or has been a victim of domestic abuse carried out by another person, and the new tenancy is granted for reasons connected with that abuse.
- 6.2.4 New applicants being offered Home For Independent Living (HFIL) accommodation will be offered a 12 month Introductory Tenancy, followed by a Secure (Lifetime) Tenancy.

- 6.2.5 Existing Medway Council Tenants transferring within Council Stock who have a Flexible Tenancy and are being offered HFIL accommodation will be offered a Secure (lifetime) Tenancy without the requirement to have a 12 month Introductory Tenancy first.
- 6.2.6 Applicants from another Council or Social landlord moving into Medway Council stock who have a Secure or Assured Tenancy that was granted **before 1st April 2012**, will be offered a Secure (lifetime) Tenancy.
- 6.2.7 Applicants from another Council or Social landlord moving into Medway Council stock who have a Secure or Assured Tenancy that was granted **after 1st April 2012**, will be offered a Secure (lifetime) Tenancy, or a Flexible Tenancy, depending on the following conditions
- If the move is at the choice of the tenant, via successful bidding under the Choice Based Lettings system e.g. to alleviate overcrowding or to otherwise improve the tenants housing, a Flexible Tenancy will be offered.
 - If the move is a 'management transfer' due to reasons such as permanent decant, a secure tenancy will be offered.
- 6.2.8 Where the prospective tenancy will be a sole tenancy, and the tenants circumstances are unlikely to change for example due to age, or permanent disability of medical condition, a Secure Tenancy will be offered.

6.3 Cuxton Caravan Site

- 6.3.1 Pitches at the Cuxton Caravan Site will be let using a Mobile Home License in accordance with the Mobile Homes Act 1983.

6.4 Housing Stock used as Temporary Accommodation

- 6.4.1 Where Medway Council housing stock is used as temporary accommodation as part of the Councils wider homelessness duties, Non-Secure Licenses will be offered.

6.5 Joint Tenancy or Sole Tenancy

- 6.5.1 When two adults make a joint application for housing, they will usually be offered a joint tenancy.

- 6.5.2 Existing sole tenants with a Flexible or Secure Tenancy can request that the tenancy be converted to a joint tenancy with a spouse, civil partner or co-habiting partner provided:
- The partner has been residing at the property for at least 12 months
 - The sole tenancy was not itself created by succession or survivorship
 - All conditions of the sole tenancy are being met
- 6.5.3 Other requests for joint tenancies such as adult siblings may be considered.
- 6.5.4 Medway Council will not normally create a joint tenancy between a parent and adult child.

7 How a tenant can bring a tenancy to an end

- 7.1 The details of how a tenant can surrender their tenancy are set out in the Tenancy Agreement.
- 7.2 Generally, 4 weeks' written notice from the tenant is required, although the Council may waive or reduce this requirement at its discretion, provided all other conditions relating to the termination have been met.
- 7.3 Medway Council can refuse to accept termination of a Flexible Tenancy if there are outstanding rent arrears or other material breach of tenancy.
- 7.4 Joint tenancies can be ended by either tenant. Where one tenant wishes to end a joint tenancy, Landlord Services will check the circumstances and ensure as far as possible that the other tenant is aware of and in agreement with the ending of the tenancy.

8 Rents

- 8.1 Medway Council Landlord Services charges social rents on all of its tenancies. The only exception to this is for tenants who have declared a household income above a certain level (currently £60k per year). For these tenants a 'Fairer Rent' applies, and they will be charged at 80% of the local market rent.
- 8.2 Rent levels are set in accordance with the [HRA Rent Setting Policy](#), which is reviewed and updated annually in April.

8.3 Service charges are shown as a separate weekly charge for the homes which benefit from these services. Other items may be added to the rent, for example district heating charges or water charges.

9 Medway Council's Approach to Tenancy Management

9.1 Assignment of a Tenancy

9.1.1 Assignment is the legal way in which a tenancy can be passed from the tenant to someone else.

9.1.2 Medway Council does not permit the assignment of tenancies, other than as required by law in the following circumstances:

- By way of Mutual Exchange (not Introductory Tenancies). See section 9.2
- Following a Court order under obtained under matrimonial proceedings or civil partnership proceedings.
- To a person qualified to succeed to the tenancy if the tenant died immediately before the assignment.
- Following a Court order obtained under the Children Act 1989

9.2 Mutual Exchange

9.2.1 A Mutual Exchange is where one tenant can 'swap' their tenancy with another tenant.

9.2.2 All Medway Council Secure and Flexible tenants have the right to do a mutual exchange with another Medway Council tenant or the tenant of another social landlord, provided certain criteria are met. Full details are set out in Medway Council's [Mutual Exchange Policy](#).

9.2.3 The tenant must make an application in writing, and wait for permission to be granted before moving.

9.2.4 A Mutual Exchange request must be granted, unless the application meets any of the grounds for refusal as set out in Schedule 3 of the Housing Act 1985 (pre April 2012 secure tenants), or Schedule 14 of the Localism Act 2011 (flexible tenants, or post 2012 secure tenants).

9.3 Succession

9.3.1 Succession is where a tenancy passes from the tenant to someone else, on the death of the tenant, and provided certain eligibility criteria are met. Full details are set out in Medway Council's [Succession Policy](#).

10 Medway Council's approach to tackling tenancy fraud

10.1 Tenancy Fraud can take various forms including:

- Attempting to obtain a tenancy by deception.
- Unlawfully sub-letting a property
- Housing Benefit fraud
- Right to Buy fraud

10.2 Medway Council is committed to tackling tenancy fraud, and there is a specific [Tenancy Fraud Policy](#) in place. Relevant officers will receive training in the detection and prevention of fraud.

10.3 Medway Council Landlord Services will work closely with other departments and agencies including the Corporate Anti-Fraud Team, Housing Benefit team and the Police.

10.4 Where appropriate, the Council will make use of the Prevention of Social Housing Fraud Act 2013

10.5 The Tenancy Management Team will undertake a continuous programme of tenancy audits to verify that its stock is occupied by bone fide tenants.

11 Medway Council's approach to tenancy sustainment

11.1 Medway Council Landlord Services aim is to support tenants to maintain their tenancies as far as possible.

11.2 Eviction of tenants is always a last resort and where a tenancy is at risk of failure, the support needs of the tenant will always be taken into consideration.

11.3 Tenants' rights and obligations will be explained to them as part of the new tenant 'sign-up' process.

11.4 The Tenancy Management Team will employ specialist staff to provide support, advice and assistance on financial matters to tenants, especially those affected by Welfare Reform.

11.5 The Tenancy Management Team will work closely with other sections of the Council, and other agencies, where support needs have been identified.

12 Role, Responsibility & Authority

12.1 The Assistant Director of Physical & Cultural Regeneration will retain the overall responsibility for the implementation of this policy.

12.2 The Head of Housing Management is responsible for operational delivery of this policy and the associated procedures, and has the responsibility for ensuring that this policy complies with regulatory and legislative requirements, and meets the Council's Business Plan and Budget.

12.3 All staff involved in tenancy management activities are responsible for implementing this policy.

13 Monitoring, Review and Evaluation

13.1 Senior Management will review the effectiveness of this policy.

13.2 This policy will be reviewed every two years or in line with legislative or regulatory changes.

Policy Version Control Sheet

Policy Title: Medway Council Landlord Services Tenancy Policy V2

Policy Author(s): Housing Manager

This Version: September 2018

Projected Date of Review: September 2020

Cross References: Medway Council Allocations Policy, Medway Council Tenancy Strategy, Medway Council Rent Setting Policy, Various Medway Council Landlord Service operational policies such as Anti-Social Behaviour, Rent Arrears, Mutual Exchange, Succession Policy.

Amendments Made: September 2018 - Flexible tenancy review process added. Changed to reflect Secure Tenancies (Victims of Domestic Abuse) Act 2018