



Tenure Policy

1st July 2013

1.0 Purpose of the Tenure Policy

- 1.1 The purpose of the Tenure Policy is to ensure that the most appropriate tenancies are granted to enable the best use to be made of the housing stock, while maintaining cohesive and stable communities.
- 1.2 The main types of tenancies that the Council can grant are secure tenancies, flexible (secure) tenancies and introductory tenancies. Flexible tenancies are also known as fixed term tenancies.

2.0 Background and scope of the Tenure Policy

- 2.1 The Homes and Community Agency Regulatory Tenure Standard requires the Council to publish clear and accessible policies, which outline their approach to tenure management, including interventions to sustain tenancies and prevent unnecessary evictions and tackling tenure fraud. The Standard specifies what should be included in a tenure policy.
- 2.2 The Regulator requires the Council to issue tenancies that are compatible with the purpose of the accommodation, the needs of individual households, and the sustainability and stability of the community and the effective use of their housing stock.
- 2.3 This Policy does not affect current existing council tenants but only new tenants from 1 July 2013.

3.0 Aims of the Policy

- 3.1 The key aims of this policy and the Council's Allocations Policy are:
 - Have regard to the Council's Tenure Strategy
 - Comply with the statutory framework for flexible tenancies as set out in the Localism Act 2011.
 - Set out proposals for the creation of tenancies for Council properties
 - Support the prevention of homelessness
 - Make best use of the available council housing stock
 - Meet local housing need by providing tenancies that are compatible with the purpose of meeting the housing needs of individual households
 - Create and maintain sustainable and stable communities
 - Be clear and fully understood by applicants for our housing
 - Be clear on the mechanisms of how to appeal and the grounds on which an appeal can be made
 - Be clear about our approach to tenancies for vulnerable applicants
 - Identify our approach to providing advice to tenants on finding alternative accommodation

4.0 The kind of tenancies that will be granted

4.1 Until the Localism Act 2011 was enacted, councils were only able to grant lifetime secure tenancies, introductory tenancies and tenancies which are not secure tenancies. The Localism Act now also allows flexible tenancies to be granted to new tenants, while protecting the rights of existing tenants.

The tenancies that West Lancashire Borough Council can grant are:

Type of tenure	Legal basis	Definition	Tenure length
Secure tenure	Housing Act 1985, Part IV, Sections 79-81	Lifetime periodic weekly tenure, with protected rights, granted to existing tenants prior to 1st July 2013, who have completed a one year introductory period. Those offered these tenancies after 1st July 2013 will not have the benefit of protected rights.	Lifetime
Flexible (secure) tenure	Housing Act 1985 Section 107A and Housing Act 1996 Section 137A, as introduced by the Localism Act 2011	Fixed term tenure of (in general) at least 5 years (but exceptionally of at least 2 years) to be granted to new tenants, following any introductory tenancy.	At least 5 years (or exceptionally at least 2 years)
Introductory tenure	Housing Act 1996, Part V, Chapter 1, Sections 124-125	Periodic weekly tenure issued to new tenants for the first year of their tenure	1 year
Tenancies which are not secure tenancies	Housing Act 1985, Schedule 1	Non secure tenure granted for example for homeless persons or a tied tenancy.	Periodic tenure

4.2 West Lancashire Borough Council has previously elected that all new tenants will be granted an introductory tenancy for the first 12 months; this will continue. The Council has now determined to adopt flexible tenancies for all new tenants of the council (following an initial introductory tenancy), subject to certain exceptions under limited circumstances for more vulnerable households where lifetime tenancies will remain.

5.0 Issuing a flexible (secure) tenure

5.1 A copy of a flexible (secure) tenure agreement will be attached to this policy prior to approval by Council.

5.2 Starting a flexible (secure) tenure

5.2.1 Prior to the start of a flexible tenure, the Council must serve notice on the applicant to notify them that, on the expiry of the introductory period, the tenure will become a flexible tenure rather than a secure tenure. The notice will inform the applicant of the length of flexible tenure that they are being offered.

5.2.2 The applicant will sign a tenure agreement at the start of the tenure. The agreement will include the terms of the introductory tenure and the terms of the flexible tenure. There will be no requirement to sign a new agreement when the introductory period expires.

5.2.3 Where the flexible (secure) tenure is a renewal or granted to a tenant transferring from another council the fixed period will start immediately, because an introductory period will not apply.

5.3 During a flexible (secure) tenure

5.3.1 A flexible tenant has the same rights as a secure tenant during their tenure including:

- Right to repair
- Right to exchange
- Right to consultation
- Right of succession to spouse, partner or cohabitee once only
- Right to buy

5.3.2 During the term of the tenure, the Council has the right to apply to the court to reduce the security of the tenure through the use of a demoted tenure.

5.4 Ending a flexible (secure) tenure

5.4.1 Each tenure will be reviewed 12 months before the expiry date to enable a decision to be reached about what to do next. The review will be carried out by a member of staff from Housing Services on a home visit. Each tenant's circumstances will be assessed, the current make up of the household determined and a financial assessment completed.

5.4.2 Following the review, the options that are available to the Council are:

- to offer a further flexible tenure at the current property
- to offer a flexible tenure at another property
- to allow the tenure to become a secure tenure, eg. where a tenant has reached retirement age

- to serve notice of the intention not to renew the tenure and issue proceedings in the prescribed form, to terminate the flexible tenure.

5.4.3 Tenants have the right to request a review of the ending of a flexible (secure) tenure. This is explained in Section 11 below.

5.4.4 At the end of the tenure a court must make a possession order if it is satisfied that:

- the flexible tenure has come to an end
- that the landlord has given not less than 6 months notice of the proposal not to grant another flexible tenure on expiry, giving the reasons and informing the tenant of their right to review
- that the landlord has given the tenant not less than 2 months' notice in writing stating that the landlord requires possession of the dwelling house

6.0 The circumstances in which tenancies of a particular type will be granted and the length of those terms

6.1 All new tenants will commence on an Introductory Tenancy. Following satisfactory conduct of the tenure for a defined period of 12 months the tenant will be offered a flexible tenure, or in a limited number of circumstances a lifetime tenure as detailed in 6.2 below.

6.2 The type and length of new tenancies will be dependent on the household type, but will be a minimum of 5 years, unless there are exceptional circumstances:

Household Type	Tenure Type	Proposed length of new tenure
Elderly (state retirement age)	Secure tenure	Lifetime
Tenants accepted for designated sheltered housing	Secure tenure	Lifetime
Tenants with a disability who have had a disabled adaptation to their property	Secure tenure	Lifetime
All other tenants	Flexible (secure) tenure	5 years

7.0 The exceptional circumstances in which the Council will grant flexible (secure) tenancies for a term of less than five years, following any probationary period

7.1 If exceptional circumstances exist, the Council will grant tenancies of less than five years, as set out below:

Exceptional circumstances	Tenure length
If an Introductory tenure has been extended due to anti-social behaviour	2 years

If a household is statutorily overcrowded at the time of the review, but no alternative accommodation has been secured	2 years
Where a Notice of Seeking Possession has been issued due to rent arrears and the Court has accepted a payment agreement which the tenant has kept to	2 years

8.0 The circumstances in which flexible (secure) tenancies may or may not be reissued at the end of tenure term

8.1 Each tenure will be reviewed 12 months before the end of the tenure term. Unless there has been a change in circumstances, the Council expects a flexible tenure to be reissued for a further fixed term.

8.2 The circumstances where a further term may **not** be granted are:

No	Circumstances	Measure (at the time of the review, 12 months before the end of the tenure term)
1	Property is under-occupied	<ol style="list-style-type: none"> 1. Children have moved out 2. Spouse, partner or cohabitee has left
2	Property is no longer suitable for the tenant's needs	<ol style="list-style-type: none"> 1. The property has an adaption, suitable for a person with a disability, that is no longer required by the occupying household
3	Tenant's circumstances have changed	<ol style="list-style-type: none"> 1. The tenant(s) is assessed as having sufficient income, according to the published allocation scheme, to be able to access housing in the market sector 2. A joint tenant or cohabitee has left 3. The tenant has come into legal ownership of another home or property
4	Tenant and/or their advocate do not engage in the tenure review process	<ol style="list-style-type: none"> 1. The tenant fails to comply with their conditions of tenure
5	Possession proceedings have commenced or tenure obligation has been broken	<ol style="list-style-type: none"> 2. The Council has served a NOSP (on mandatory or discretionary grounds) on the tenant 3. The Council has evidence of rent arrears over £2,000 4. The Council has evidence that the tenant has carried out anti-social behaviour 5. The Council has evidence that the tenant has behaved unreasonably, according to the definition in the published allocation scheme
6	Disposal or refurbishment of property	<ol style="list-style-type: none"> 1. The end of the lease term for a leasehold property 2. Property is identified within a masterplan as suitable for demolition or major refurbishment

8.3 If a decision not to renew has been made as a result of a review and then circumstances change, a further review can be undertaken.

8.4 If a decision to reissue is made, but the facts that have been considered are found to be fraudulent, the Council reserves the right to take legal action.

9.0 The way in which a prospective tenant may appeal against or complain about the length of the fixed term offered and the type of tenure offered

9.1 An applicant can request a review of their offer of accommodation on a flexible (secure) tenure, within 21 days of receiving it under Section 107B(2) of the Localism Act 2011 (or such longer period as the Council may allow). The detailed procedure is set out in Statutory Instrument 2012/695.

9.2 The request for a review should be made in writing (either by letter or email) by the customer or their advocate, and state the grounds on which a review is sought, that is why, in their view, the length of tenure being offered does not match the published policy on tenure lengths.

9.3 The applicant can require the review to be carried out by way of an oral hearing. If an oral hearing is requested, the landlord will notify the prospective tenant of the time and place of the hearing, no earlier than 5 days after the request for a review has been received.

9.4 If the review is considered at an oral hearing, the decision will be made by the officer who conducted the hearing.

9.5 If an oral hearing is not requested, the landlord must give the prospective tenant notice of the right to make written representations in support of their application within a specified time period, of no earlier than 5 days after the tenant receives the notice.

9.6 A review decision where an oral hearing does not take place, will be made by the Housing Operations Manager who will make a recommendation to the Assistant Director of Housing and Regeneration for final approval.

9.7 On completion of the review, the landlord must notify the applicant of the decision and give clear reasons for reaching the decision.

10.0 Taking account of the needs of vulnerable customers by reason of age, disability or illness and households with children

10.1 The provision of tenancies of at least five years gives a reasonable degree of stability to households who are vulnerable by reason of age, disability or illness and households with children. To provide added stability to people over state retirement age and households with a disabled person who has required a disability adaptation to their property, lifetime tenancies will continue to be granted.

- 10.2 The Housing Options Team service supports vulnerable applicants at the start of their tenancies to give them the best opportunity of sustaining a successful tenure by working in partnership with support agencies.
- 10.3 During a tenure, the Council works towards enabling tenure sustainment as opposed to enforcement. Due regard and consideration is taken to issues of vulnerability and unmet support needs and referrals are made to support agencies such as DISC when required and particularly when there is a threat of the tenant losing their home.
- 10.4 A range of prevention options are available and can be used as appropriate, including mediation, acceptable behaviour contracts, injunctions, and referral to youth services.
- 11.0 The way in which a tenant can appeal against a decision not to grant another tenure on expiry of the fixed term**
- 11.1 The tenant has the right to request a review of the decision not to offer another fixed term, within 21 days of the notice advising them of the decision is served under Section 107E(1) of the Localism Act 2011. The request for a review should state the grounds on which a review is sought. The detailed procedure is set out in Statutory Instrument 2012/695.
- 11.2 The applicant can require the review to be carried out by way of an oral hearing. If an oral hearing is requested, the landlord will notify the prospective tenant of the time and place of the hearing, no earlier than 5 days after the request for a review has been received.
- 11.3 If an oral hearing is not requested, the landlord must give the prospective tenant notice of the right to make written representations in support of their application within a specified time period.
- 11.4 A review decision will be made by the Housing Operations Manager not involved in the decision making process set out in 9.6. If a review is considered at an oral hearing, the decision will be made by the officer who conducted the hearing.
- 11.5 On completion of the review, the landlord must notify the applicant of the decision and give clear reasons for reaching the decision.
- 11.6 If a review has been requested, but the Court is satisfied that the review has not been lawfully carried out, the Court may refuse to make an order for possession.
- 12.0 The advice and assistance given to tenants whose tenancies are not being renewed**
- 12.1 Tenants will be given advice and assistance to explore their housing options. The Housing Options Team will have a key role to play in helping those whose

tenancies will not be renewed to explore all the options available to them to meet their housing need.

- 12.2 In circumstances where the tenant successfully bids for property through the choice-based lettings, but refuses 3 offers of suitable accommodation, their application will be suspended