



TENANCY POLICY

June 2013

CONTENTS

1.0	BACKGROUND	3
2.0	DEFINITIONS	3
3.0	AIMS OF THE POLICY	3
4.0	VULNERABLE TENANTS	3
5.0	SUSTAINING TENANCIES	3
6.0	TENANCY TYPE	4
7.0	ENDING A TENANCY	6
8.0	SUCCESSION RIGHTS	6
9.0	SUITABILITY OF PROPERTY FOR SUCCESSOR	8
10.0	NOTIFICATION OF DEATH OF TENANT	8
11.0	FLEXIBLE (OR FIXED TERM) TENANCIES	8
12.0	TENANCY FRAUD	9
13.0	AFFORDABILITY	9
14.0	REVIEW OF THIS TENANCY POLICY	10

1.0 BACKGROUND

- 1.1 This document fulfils the requirements of the Localism Act 2011 for Registered Providers to have a Tenancy Policy.
- 1.2 This policy has been developed with due regard to Charnwood Borough Council's (CBC or 'the council') Tenancy Strategy and was reviewed by both the Council's Housing Management Advisory Board and the Overview Scrutiny Group prior to approval by Cabinet on 6 June 2013.

2.0 DEFINITIONS

- 2.1 'we' Charnwood Borough Council or 'the council'
- 2.2 'tenants' Tenants of Charnwood Borough Council

3.0 AIMS OF THE POLICY

- 3.1 The aims of this Tenancy Policy are:
 - To ensure the council's available housing stock is used effectively to reduce overcrowding, tackle under occupation and make the best use of adapted housing for disabled homeseekers.
 - To assist in supporting and sustaining tenancies
 - To set out the types of tenancies the council will grant
 - To further strengthen sustainable communities across Charnwood
 - To ensure housing circumstances do not become a barrier to customers achieving broader life aspirations, for example in employment and education

4.0 VULNERABLE TENANTS

- 4.1 The impact of this Tenancy Policy on equality and diversity is considered to be neutral as the proposal is to not implement flexible or fixed term tenancies at this time, but to undertake a review by 2015 as detailed at section 14.

5.0 SUSTAINING TENANCIES

- 5.1 Charnwood Borough Council is committed to making a positive difference to the lives of tenants whilst making the best possible use of our homes. To achieve this, we recognise the positive actions we can take to make the best use of stock whilst at the same time allowing households to invest in their community and properties with certainty.
- 5.2 We provide all new tenants with clear information concerning the terms of their tenancy agreement and of the consequences of failing to keep to those terms. Should the council

become aware of breaches of tenancy agreements, we will intervene as we become aware of these breaches. Following investigations, we will seek to ensure that tenants receive appropriate support to help them remain in their property.

- 5.3 All tenants in supported and sheltered accommodation are involved in setting an individual support plan identifying support needs and how we will actively work to ensure that these are met. Support plans are reviewed annually.

5.4 SUPPORTING TENANTS

- 5.5 The council provides homeseekers and tenants with support and advice tailored to their individual needs, to maximise opportunities for tenancy sustainment, and to support positive health, wellbeing and life opportunities.
- 5.6 Our Tenancy Support Team provides direct support and advice and signposts to other agencies. Our Financial Inclusion Officer provides debt advice and works with tenants to develop financial capability.
- 5.7 Where tenants have rent arrears, the council will seek possession only where all preventative methods (for example, tenancy support, training and/or referrals to advice/social welfare services) have been reviewed and exhausted.

5.8 UNDER OCCUPATION

- 5.9 Welfare reform affects tenants on benefits who are under occupying their homes by one or more bedrooms than they have been assessed as having a need for. Initiatives to support affected tenants include the Assisted Transfer Scheme which provides a financial incentive to downsize. The council may also arrange and coordinate moves for vulnerable tenants.
- 5.10 Charnwood Borough Council is a subscribing member of HomeSwapper, a national internet based mutual exchange scheme. HomeSwapper enables social tenants to swap their homes with other members of the scheme through accessing the system free of charge. Where a tenant wishes to move and has difficulty accessing the HomeSwapper service, support will be provided.
- 5.11 The council also assists tenants affected by welfare reform to find a smaller home through its revised (June 2013) by increasing their housing need priority to the High Band as part of the choice based lettings (CBL) allocations scheme.
- 5.12 Secure tenants may also take in a lodger(s).

6.0 TENANCY TYPE

- 6.1 The council will provide all new tenants with a written tenancy agreement that sets out the rights and responsibilities of the tenant [and joint tenant if applicable] and the rights and responsibilities of Charnwood Borough Council.
- 6.2 When letting council properties, new tenants will be granted the most appropriate form of tenure for their circumstances.
- 6.3 The new tenancy will be one of the following:

6.4 INTRODUCTORY TENANCY

6.5 A 12 month introductory tenancy will be granted to all new tenants of Charnwood Borough Council. Where the tenant(s) comply with the terms of the tenancy agreement for the 12 month period, the council will issue a letter confirming that the introductory tenancy has converted to a secure tenancy.

6.6 A NON SECURE TENANCY

6.7 Non secure tenancies are usually granted to households who have made a homeless application whilst the council investigates whether it has a duty to house the homeseeker.

6.8 Non secure tenants have very few rights.

6.9 A SECURE TENANCY

6.10 A secure tenancy will be granted to new tenants who have successfully completed a 12 month introductory tenancy or tenants who transfer from an existing Charnwood Borough Council tenancy to another Charnwood Borough Council tenancy.

6.11 Homeseekers who are secure tenants of a Housing Association at the time of their application and at the time of offer will be granted a secure tenancy.

6.12 Mutual exchange tenants will be assigned the secure tenancy of the outgoing tenant.

6.13 Secure tenants have the right to buy, mutual exchange, and/or take in lodgers.

6.14 OTHER TENANCY TYPES

6.15 Extended Introductory Tenancy

6.16 An introductory tenancy will be extended for a period of up to 6 months where there have been issues with a tenant/joint tenant and/or a member(s) of the household failing to meet their responsibilities under the tenancy agreement. For example, there is evidence of antisocial behaviour, criminal behaviour, or rent arrears have accrued.

6.17 The extended introductory tenancy allows the tenant a further opportunity to address the breach of tenancy whilst allowing the council to obtain further evidence and/or involve support agencies as appropriate.

6.18 An introductory tenancy can be extended only once. Where the tenant(s) comply with the terms of the tenancy for the 6 month extension period, they will receive a letter confirming that the extended introductory tenancy has converted to a secure tenancy.

6.19 Where issues with the tenant/joint tenant and/or member(s) of the household remain, the council will commence actions seeking possession (i.e. Notice for Possession Proceedings) at least 6 weeks prior to the tenancy becoming a secure tenancy.

6.20 Demoted Tenancy

6.21 Where there is evidence of persistent antisocial and/or criminal behaviour from the tenant, joint tenant, a member(s) of the tenant's household and/or a visitor(s) to the

tenant's home, a demoted tenancy may be applied for in the county court. A demoted tenancy may be granted for a period of 12 months to replace the existing secure tenancy. The demotion period may be extended if possession is sought during this time.

- 6.22 Where issues with persistent antisocial and/or criminal behaviour have been resolved by the end of the 12 month period, assuming an order for possession has not been sought during this time, the demoted tenancy will revert back to the original secure tenancy.
- 6.23 A demoted tenancy provides fewer rights than a secure tenancy, for example, the tenant/joint tenant will lose the right to buy the property, engage in a mutual exchange or take in lodgers.
- 6.24 Where there is evidence of persistent antisocial and/or criminal behaviour from the tenant, joint tenant, a member(s) of the tenant's household and/or a visitors to the tenant(s) home, the council may commence legal proceedings to bring this tenancy to an end.

7.0 ENDING A TENANCY

- 7.1 In normal circumstances, tenants are required to provide the council with 28 days notice of their intention to vacate their property. Tenants who have died and tenants transferring to another property are excluded from this requirement.
- 7.2 On receiving notice to terminate, the council will carry out a pre-termination inspection of the property. Where damage and/or alterations have been found, the tenant will be required to repair damage and restore alterations. Where the property is found to be in a poor condition, the tenant will be recharged.
- 7.3 The council may seek to end a tenancy and regain possession of a property where a tenant has failed to meet their responsibilities under the tenancy agreement. Notice to seek possession will be served only where all options to sustain a tenancy have been reviewed and exhausted.

8.0 SUCCESSION RIGHTS

- 8.1 The majority of Charnwood Borough Council's tenants are secure tenants.
- 8.2 Section 87 of the Housing Act 1985 (as amended by Section 160 of the Localism Act 2011) provides for only **one** statutory succession to a surviving spouse or civil partner or a member of the deceased tenant's family. This right of succession applies to tenants holding a secure tenancy and tenants holding an introductory tenancy.
- 8.3 The Localism Act 2011 makes the following amendments to the rules on succession. These are only applicable to new tenants from April 1st 2012.

Section 160

Section 160 removes the statutory right of those other than spouses and partners to succeed to a secure tenancy. It also provides discretion for landlords to grant succession rights in addition to the statutory minimum of one succession to a spouse or partner.

Section 161

Section 161 enables landlords to grant additional succession rights for assured tenancies.

8.4 Tenancies that commenced before section 160 and section 161 came into force are not affected by these changes.

8.5 Where a tenancy was originally a joint tenancy and one of the joint tenants dies or surrenders their interest, this is a succession and no further statutory successions can be claimed.

8.6 For a surviving spouse or civil partner to qualify as a successor, s/he must occupy the property as their main and principal home at the time of the secure tenant's death.

8.7 Where the would-be successor is not the spouse or civil partner of the deceased tenant and is a member of the family, (a 'member of the family' is defined as parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces-this definition includes step-relations, half-relations and illegitimate children and 'persons living together as husband and wife') it is necessary to show that the member of the family had been residing with the deceased tenant for at least 12 months before the death of the tenant. 'Residing with' means more than 'living or staying at' the property but not necessarily as much as residing there permanently or indefinitely.

8.8 Where there is more than one qualifying person to succeed, the deceased tenant's spouse or civil partner will take precedence. Where the deceased tenant does not have a surviving spouse or civil partner, the qualifying members of the family must agree amongst themselves who the successor will be. If the members of the family are unable to agree on the successor, the council will choose the successor. There can be no joint succession.

8.9 Where a tenancy is succeeded, the new tenant will have the same type of tenancy as the previous tenant. If the previous tenant had an introductory tenancy, it will remain introductory until the 12 month period has passed. To avoid the risk of eviction, the new tenant must fulfil his/her obligations under the tenancy agreement.

8.10 Where no-one is eligible to take over the tenancy by succession or no-one wishes to take over the tenancy by succession, the tenancy must be formally ended. The deceased tenant's estate will be liable for rent payments until the tenancy has been formally ended.

8.11 Where a joint tenancy was in place and a joint tenant dies, the surviving joint tenant will be liable for rent payments.

8.12 Where a successor is aged under 18 years, a succession may be held in trust until the successor comes of age.

8.13 PROPERTIES WITH ADAPTATIONS

8.14 The council has a limited number of properties that have been adapted for homeseekers with different levels of mobility needs (for example, properties that are fully wheelchair accessible and those that have level access showers). We match homeseekers with a need for an adapted home to the properties that become available.

8.15 In circumstances where a relative succeeds to a property that has been adapted to meet the mobility needs of the previous tenant, the council may seek a transfer to a more suitable home. We will consider individual circumstances and exercise discretion in deciding on the most appropriate form of move.

9.0 SUITABILITY OF PROPERTY FOR SUCCESSOR

9.1 Where the successor is not the spouse/civil/unmarried partner of the deceased tenant and the property is considered to be too large for the requirements of the successor, for example, a single person succeeds a property with two or more bedrooms, the council will seek a move to another more suitably sized property using Ground 16 (Schedule 2 of the Housing Act 1985).

9.2 To determine whether it is reasonable to make an order under Ground 16, consideration will be given to the following:

- The age of the tenant(s)
- The period during which the tenant(s) have occupied the dwelling as their only or principal home
- Any financial or other support provided by the succeeding tenant(s) to the deceased tenant

9.3 Where the council is satisfied that it is reasonable to commence possession proceedings and that suitable alternative accommodation is available, notice will be served to the new tenant(s) or proceedings begun no sooner than six months after the death of the previous tenant and no later than 12 months after the death of the previous tenant.

9.4 Successions are created pursuant to Part IV of the Housing Act 1985 (section 79) which became statute on 30 October 1985. Prior to this date, the right of succession did not exist.

9.5 Where the property is considered to be unsuitable for a relative of the deceased tenant, the council may serve a Notice within one year and apply to the court for possession of the home. In these cases, the council will offer the deceased tenant's relative a smaller home.

10.0 NOTIFICATION OF DEATH OF TENANT

10.1 In cases where the council has not been notified of the death of a tenant, the council may use Ground 15a to invoke a court to direct that the date from which the time limit runs is the date on which the council becomes aware of the death of the previous tenant.

11.0 FLEXIBLE (OR FIXED TERM) TENANCIES

11.1 Section 154 of the Localism Act 2011 makes provision for registered providers to introduce, at their discretion, flexible tenancies, in order to make the best use of limited housing stock for families. These tenancies would usually be granted to new

homeseekers for a fixed term of 5 years but, in exceptional circumstances, shorter flexible tenancies of 2 years may be granted.

- 11.2 The use of flexible tenancies will not be implemented currently, but will be kept under review by the council. Please see section 14 below for more information about the review process.

12.0 TENANCY FRAUD

- 12.1 Charnwood Borough Council has a limited number of homes that are available to let and all lettings are prioritised according to housing need and the council's duty to house certain vulnerable members of society (for example, children).

- 12.2 The council has an active involvement in the National Fraud Initiative and is committed to preventing, detecting and investigating all types of fraud. Tenancy fraud deprives families of homes and we will take action where fraud is found.

- 12.3 Tenancy fraud includes:

- Subletting a property without the landlord's permission for personal gain
- Providing false information on your application for housing, for example:
 - Claiming to have children when you don't
 - Claiming to be homeless when you already own a property

- 12.4 The council responds swiftly to all reports of unoccupied/abandoned properties and sub-let properties. We encourage staff and tenants to report any suspected incidents of tenancy fraud and we work jointly with Housing Benefit fraud investigators as necessary. We take copies of photographic identification (for example, a passport or driving licence) of all homeseekers. Where photographic identification is not available, we may take a photograph of each new tenant(s) as part of our Lettings process.

- 12.5 If tenants are found to be committing housing fraud, they could:

- Lose their tenancy
- Lose their right to council housing in the future
- Be fined or sent to prison depending on how serious the fraud is

13.0 AFFORDABILITY

- 13.1 Affordable rent housing comprises:

- **Social rent homes** – housing let at low rents, usually by councils and housing associations, on a secure basis to people in housing need
- **Affordable rent homes** – allocated in the same way as social homes and registered providers are able to charge no more than 80% of local market rents (including service charges if applicable) for new affordable homes
- **Intermediate rent homes** – these aim to bridge the gap between renting and owning and are available on an assured shorthold tenancy. Households who meet the

eligibility criteria (determined with regard to local incomes and local house prices) are at a later date able to buy a share in a newly built property and pay rent on the remaining share

- 13.2 Affordable rent homes are delivered through schemes funded by the Homes & Communities Agency (HCA) under either the Affordable Homes Programme 2011-15 or through the Right to Buy Replacement Programme.
- 13.3 Affordable homes give registered providers more flexibility on rents whilst providing accommodation for people who need social housing.
- 13.4 Affordable rent homes and intermediate rent homes are intended to generate additional income to be reinvested by registered providers in the development of new social housing.
- 13.5 The council has no plans to develop through the HCA programme at present. Where a decision is taken to deliver the Right to Buy Replacement Programme, government requires these properties to be let at affordable rent.
- 13.6 The council's position will be kept under review.

14.0 REVIEW OF THIS TENANCY POLICY

- 14.1 This policy will be reviewed in 2015. The evaluation process will include:
- A review of the operational experiences of registered providers that have adopted flexible tenancies
 - A full and comprehensive consultation with tenants and stakeholders
 - The engagement of the Housing Management Advisory Board
 - A review of the data profile of new tenants and homeseekers on the waiting list, to better understand the needs and aspirations of households entering the council's stock
 - The natural turnover of properties
 - Sustainability of communities
 - Tenure mix in particular locations
 - Accommodation types in particular locations
 - A comprehensive Equalities Impact Assessment on the nine protected characteristics – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.