

Glossary for Tenancy Strategy

Notes:

This glossary is intended as a skeleton for the seven districts in the Cambridge housing sub-region to use in their respective tenancy strategies. The glossary aims to support public access and understanding of the issues discussed in policies and strategies. Legal terms have been avoided wherever possible to help understanding, however the “sense” of the legal phrases has been kept. Sources are provided to enable the reader to go direct to the source if necessary, enabling access to the more technical definitions if needed.

Tenancy law is a complex area, this note does not in any way constitute legal advice and must not be used as such.

Term and attempt at “plain English” explanation...!

Affordability

The terms ‘affordability’ and ‘affordable housing’ have different meanings.

- ‘Affordability’ is a measure of whether housing may be afforded by certain groups of households.
- ‘Affordable housing’ refers to particular products outside the main housing market.¹

Affordable housing

Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:

- Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.
- Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.²

Affordable rented housing

Rented housing let by registered providers of social housing to households who are eligible for social rented housing.²

Affordable Rent homes will be allocated in the same way as social rent properties. Existing lettings arrangements operated by local authorities and Private Registered Providers will continue to apply. The [allocation](#) framework provides some flexibility which local authorities and Private Registered Providers can use in relation to Affordable Rent so they meet local needs and priorities in the most effective way possible.

Affordable Rent is not subject to the [national rent regime](#) but comes under other rent controls that require a rent is set of no more than 80% of the [local market rent](#) (including service charges where applicable). The rent level can only be “rebased” (changed) once a tenancy comes to an end and a new tenancy is issued (to the same, or to a different tenant)

Many new homes built from 2012 onwards will also be let at affordable rent.³

Allocation

The allocation of housing by a housing authority is defined as:

- Selecting a person to be a secure or introductory tenant of housing accommodation held by that housing authority
- Nominating a person to be a secure or introductory tenant of housing accommodation held by another housing authority; or
- Nominating a person to be an assured tenant of housing accommodation held by a Private Registered Provider.³

Allocation scheme

Housing authorities are required by the 1996 Housing Act to have an allocation scheme to determine priorities, and to define the procedures to be followed in allocating housing accommodation. They must allocate housing in accordance with the allocation scheme.

The allocations scheme must cover all aspects of the allocation procedure.

All housing authorities must have an allocation scheme, regardless of whether or not they retain ownership of housing stock and whether or not they contract out the delivery of any of their

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allocation functions (for example, even if council housing has been transferred to a housing association, the housing authority must still have an allocation scheme).

When framing or modifying their allocation scheme, housing authorities must have regard to their current tenancy and homelessness strategies.

The 1996 Housing Act requires a housing authority to:

- Publish a summary of their allocation scheme and, if requested, to provide a free copy of that summary.
- Make the full scheme available for inspection at their principal office and, if requested, provide a copy of it on payment of a reasonable fee. It is recommended that authorities also publish their full scheme on their website.
- Make sure that, if an alteration is made to a scheme reflecting a major change of policy, the authority must (within a reasonable time) ensure those likely to be affected by the change shall have it brought to their attention. For example a major policy change would include, for example, any change affecting the priority given to a large number of people being considered for social housing.
- Send a copy of the draft scheme or proposed alteration, to every Private Registered Provider with which they have nomination arrangements, giving reasonable opportunity to comment on the proposals; before adopting an allocation scheme, or altering an existing scheme.

Housing authorities should include all those who may be affected by, or have an interest in, the way social housing is allocated when consulting on a new allocation scheme or making major changes to it. It will be important to engage with a wide range of partners in the statutory, voluntary and community sectors, as well as applicants, existing tenants and the wider community.³

Assured shorthold tenancy

In general, assured shorthold tenants:

- live in a hostel or supported housing
- had their accommodation arranged by the council when they made a homeless application
- have had a secure or assured tenancy demoted by the courts
- are in the first 12 months of a starter tenancy, or
- their tenancy started after 26 February 1997 and they are not an assured tenant.

An assured shorthold tenancy is a tenancy that gives you a legal right to live in accommodation for a period of time. The tenancy might be set for a period (known as a fixed-term phase of the tenancy) such as six months. Or it might roll on a week-to-week or month-to-month basis (this is known as the periodic phase of the tenancy).⁴

Assured tenant

The term ‘assured tenant’ includes a person with an assured shorthold tenancy, and a person with a full assured tenancy, and includes Affordable Rent properties.²

In general, housing association tenants are all assured tenants, unless:

- the accommodation is not self-contained
- the tenancy started before 15 January 1989 (in which case they may be secure tenants)
- they have been given a starter tenancy for the first year and this is yet to finish
- the tenancy has been demoted because of antisocial behaviour
- they live in a hostel, housing where support is provided, or temporary accommodation arranged for them by the council when they made a homelessness application
- they work for the housing association and the home comes with the job.⁵

Conversion

Housing associations and local authorities are able to agree with the [HCA](#) to “convert” a proportion of their homes, when they come up for re-let, to Affordable Rent. This helps fund the development of new homes in future.² This means that some homes, owned and managed by a housing association, can be changed over to Affordable Rent when the current tenant moves out, and before it is let to another tenant.

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Demoted tenancy

In general, a tenant has a demoted tenancy if:

- they used to have an assured or secure tenancy, and
- the housing association got a 'demotion order' from the court, and
- less than a year has passed since the order was made.

If a tenancy has been demoted, the housing association should have confirmed this in writing and sent the tenant information about their rights. The tenant should also have received letters from the court, confirming how long the tenancy has been demoted for.⁶

Demotions: for housing associations

A tenant can be “demoted” for a set period of time, as a measure to try to improve behaviour, hopefully avoiding the landlord seeking possession of the property (i.e. through eviction).

At the end of the demotion period if the problem has been resolved, a tenant who was on a fixed term assured shorthold tenancy automatically gets a periodic assured tenancy (not another fixed term assured shorthold tenancy). If another fixed term assured shorthold tenancy is required, the landlord must serve a notice on the tenant before the end of the demotion period, informing them that the new tenancy is to be a fixed term tenancy and specifying the length of the fixed term and any other terms for the tenancy.

Demotions: for local authorities

If a flexible tenancy is demoted and the demotion period is completed successfully, the demoted tenancy will automatically become a secure tenancy, not a flexible tenancy. If a flexible tenancy is required, the landlord must serve a notice on the tenant before the end of the demotion period, informing them that the tenancy is to be a fixed term tenancy and specifying the length of the fixed term and other express terms of the tenancy.²

Department for Communities and Local Government (DCLG)

The government department in charge of housing and related matters. Their website says: “The Department sets policy on supporting local government; communities and neighbourhoods; regeneration; housing; planning, building and the environment; and fire”.⁷

Eligibility and qualification for housing

Housing authorities must consider all applications for social housing that are made in accordance with the procedural requirements of the authority’s [allocation scheme](#). In considering applications, authorities must establish if an applicant is eligible for an allocation of accommodation, and if he or she qualifies for an allocation of accommodation.

The provisions concerning eligibility and qualification for an allocation of accommodation are contained in s.160ZA of the 1996 Housing Act.³

Flexible (or fixed term) tenancies

‘Fixed term tenancies’ is a term used for all tenancies offered for a specified period of time, compared to more traditional ‘lifetime tenancies’ for social housing.

Once adopted, the new ‘national tenancy standard’ will require providers to offer a tenancy for a fixed term of at least 5 years, other than in exceptional circumstances where they may offer a tenancy for no less than 2 years. The provider must set out such “exceptional circumstances” in their [tenancy policy](#).

“Flexible” is the word being used in government documents to describe the new ability for housing providers to let homes to tenants on a “less than lifetime” basis. In the past, a social letting would generally be for life (often once an [introductory](#) or starter period had passed) but now there is the possibility of offering a tenancy for 2, 5 or more years. This would enable a review and a re-evaluation of the rent level.²

Flexible (or fixed term) tenancies for housing associations

Currently housing associations cannot generally offer fixed term tenancies at a social rent, as regulations require that they ‘offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community’. This means providers must grant ‘lifetime tenancies’ to the majority of new tenants in general needs, social rented housing. However housing associations can now offer fixed term tenancies at an Affordable Rent as part of their contract with the homes and communities agency to deliver new homes as part of the Affordable

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Homes Programme.

The [TSA](#) is consulting on revisions to the Tenancy Standard. Instead of requiring providers to offer the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community, they plan to require providers to *‘grant tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of their housing stock’*. If this change is approved housing associations will also be able to offer fixed term tenancies to **any new tenants**, but only if they choose to do so. The providers’ [tenancy policy](#) will need to address these requirements and to set out the circumstances when different types of tenancy will be used. Legally, housing associations do not need a new type of tenancy to grant fixed term tenancies. They may simply grant fixed term assured shorthold tenancies.

Housing association ending the tenancy at the end of the fixed term

Where a housing association proposes not to grant another tenancy at the end of the fixed term, the Localism Act provides that the court may not grant possession unless the tenant has been given at least 6 months’ notice in writing of the landlord’s decision and how to obtain help and advice. This is in addition to the usual requirement for a section 21 notice. No right of review is set out in the Localism Act for housing association tenants at the end of a fixed term. However, the draft revised Tenancy standard requires that an appeal or complaints procedure is available, so should be given and set up in the same way as for local authorities.²

Flexible (or fixed term) tenancies for local authorities

In April 2012 onwards, parts of the Localism Act will come into force so a new type of tenancy - called a flexible tenancy - will be available. Following changes to regulations, these flexible tenancies can be used by local authorities.

Generally, tenants with a flexible tenancy will have many of the same rights as other secure tenants, which are set out in the Housing Act 1985. These rights include the Right to Buy and the Right to Repair. The same grounds for possession will all be available and could be used during the fixed term, for example if there are rent arrears or a breach of tenancy. However, the tenancy agreement will determine whether tenants with a flexible tenancy have other rights enjoyed by secure tenants, including the right to improve their property (the statutory right to improve will not apply). Flexible tenants will not have a statutory right to be compensated for improvements. All new secure tenancies (including flexible tenancies) will only have a statutory right of one succession to a spouse or partner and not also to other family members. Existing secure tenants’ right to succession will not be affected.

When flexible tenancies are available they will only be used where local authorities choose to do so. They will only be available to new tenants. The rights of existing secure and introductory tenants are unchanged.

Ending a local authority flexible tenancy

The procedure for local authorities who decide not to grant another tenancy at the end of the fixed term is set out in the Localism Act. A court can only refuse possession if the correct procedure has not been followed by the landlord or if the court is satisfied the decision not to grant another tenancy was ‘wrong in law’. There are 3 conditions to get a court order to end the tenancy:

1. The fixed term has ended
2. The tenant has been given no less than six months notice in writing, stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term; giving the reasons why and informing the tenant of their right to request a review and the timescale for this
3. The tenant has been given no less than two month’s notice in writing stating that the landlord requires possession of the dwelling house.

If the tenant refuses to vacate the property possession proceedings should be taken.²

Ending the tenancy at the end of the fixed term

Whether a tenant will be able to remain in social housing at the end of the fixed term will depend on the provider’s tenancy policy, which should set out the circumstances in which another tenancy would or would not be given at the end of a fixed term. Where another tenancy is not being offered, the provider must offer advice and assistance to help the tenant find alternative housing. The nature of this support should also be set out in the provider’s [tenancy policy](#).²

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<p>Homes and Communities Agency (HCA) Describes itself as “Working with our local partners, we use our skills and investment in housing and regeneration to meet the needs of local communities; creating new affordable homes and thriving places”.⁸</p>
<p>Hostel accommodation If someone needs a place for the night, they may be able to stay in an emergency hostel or nightshelter. These are usually run by housing associations, charities or the local council. The length of time someone can stay will vary. Most hostels can offer a place for a few nights, but some may offer a few months. Most hostels will also try to help find somewhere more permanent before the end of a stay. They may be able to help get a place in a longer-term hostel or special 'move on' accommodation for people who aren't ready to live on their own yet.⁹ See also temporary accommodation</p>
<p>Housing association In the United Kingdom, housing associations are private, generally non-profit making organisations that provide low-cost "social housing" for people in need of a home. Trading surpluses are used to maintain existing housing and to help finance new homes. Although independent they are regulated by the state (through the Tenant Services Authority) and commonly receive public funding. They are the United Kingdom's major providers of new affordable housing for rent, while many also run shared ownership schemes to help those who cannot afford to buy a home outright. Housing associations provide a wide range of housing, some managing large estates of housing for families, while the smallest may perhaps manage a single scheme of housing for older people. Much of the supported accommodation in the UK is also provided by housing associations, with specialist projects for people with mental health or learning disabilities, with substance misuse problems, people who were previously homeless, young people, ex-offenders and women fleeing domestic violence. Housing association and Registered Social Landlord are also known as Private Registered Providers.</p>
<p>Housing demand The quantity of housing that households are willing and able to buy or rent.¹</p>
<p>Housing market areas Geographical areas defined by household demand and preferences for housing. They reflect the key functional linkages between places where people live and work.¹</p>
<p>Housing need The quantity of housing required for households who are unable to access suitable housing without financial assistance.¹</p>
<p>Intermediate affordable housing Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out in the entry titled affordable housing. These can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent but does not include affordable rented housing. The definition does not exclude homes provided by private sector bodies or provided without grant funding. For planning purposes: where such homes meet the definition, they may be considered as affordable housing. Whereas those homes that do not meet the definition, for example, 'low cost market' housing, may not be considered affordable housing.¹</p>
<p>Introductory (starter) tenancy A starter tenancy is a trial tenancy, and gives the tenant the same rights as an assured shorthold tenancy. This means the tenant has fewer rights and less protection from eviction than a secure or assured tenant. Most housing associations give a starter tenancy for the first year, but this varies. At the end of the starter tenancy the tenant should automatically become an assured tenant if the housing association does not take steps to evict. If it is a joint tenancy, the trial period ends as soon as one of the joint tenants has completed the trial period. Any time spent as a starter tenant with another housing association should count towards the trial period, but again this may vary.¹⁰ For local authorities starter/introductory tenancies will be available for providers offering fixed term tenancies, at both social and affordable rent. The Localism Act amends the Housing Act</p>

<p>Term and attempt at “plain English” explanation...!</p> <p>1996 to allow introductory tenancies to become flexible tenancies at the end of the introductory period.</p> <p>For housing associations the draft Tenancy standard makes it clear that a fixed term tenancy can be preceded by a probationary period. Housing associations can extend starter tenancies for up to 18 months in the same way local authorities can with their introductory tenancies.²</p>
<p>Lifetime tenancy</p> <p>‘Fixed term tenancies’ is a term used for all tenancies offered for a specified period of time, compared to more traditional ‘lifetime tenancies’ for social housing.</p>
<p>Local lettings policy</p> <p>The 1996 Housing Act enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories. This is the statutory basis for so-called ‘local lettings policies’. Local lettings policies may be used to achieve a wide variety of housing management and policy objectives. Before adopting a local lettings policy, authorities should consult with those who are likely to be affected and in particular with tenants and residents. Local lettings policies should be published and should be revised or revoked where they are no longer appropriate or necessary.³</p>
<p>Local market rent</p> <p>Local market rents are calculated using the Royal Institution for Chartered Surveyors (RICS) approved valuation methods. The Tenant Services Authority has issued an explanatory note on these, please see footnote ¹¹</p>
<p>Market housing</p> <p>Private housing for rent or for sale, where the price is set in the open market. ¹</p>
<p>Mutual exchanges</p> <p>Mutual exchanges between tenants of social landlords presently take place via a deed of assignment where each tenant steps into the other’s shoes and takes over the other tenant’s tenancy type and terms. New tenancy agreements are not signed. New provisions in the Localism Act cover those circumstances where:</p> <ul style="list-style-type: none"> • At least one of the tenants who wishes to transfer has a secure or assured tenancy, which began before the relevant sections of the Localism Act came into force (expected to be April 2012), and • At least one of the tenants has a flexible tenancy or a fixed term assured shorthold tenancy. Such exchanges must be done by surrender and then granting of new tenancies. The new landlord must grant the tenant(s) whose secure or assured tenancy predated the coming into force of the Localism Act either a secure (not flexible) tenancy, (if they are a local authority) or an assured (not assured shorthold) tenancy (if they are a housing association). <p>Existing tenants will therefore retain similar security of tenure to that of their original tenancy. Secondary legislation will shortly be made which will set out that these provisions will not apply where an existing secure or assured tenant chooses to exchange with:</p> <ul style="list-style-type: none"> • Someone with a fixed term tenancy of less than two years • Someone with a tenancy at an affordable rent, intermediate rent, mortgage rescue properties and shared ownership leases. <p>A landlord can still refuse an exchange of this nature. The grounds on which they may do so are in Schedule 14 to the Localism Act. They have 42 days to make that decision.</p>
<p>National rent regime</p> <p>The national rent regime is the system by which the social rents of tenants of social housing are set, with particular reference to the Guide to Social Rent Reforms (March 2001) and the Rent Influencing Regime Guidance (October 2001).</p> <p>In brief, the government set up a plan so that rents would “converge” for council and for housing association tenants. The aim was for tenants renting a roughly similar property, to be charged a similar amount. The rents were to converge by a specific date in the future, so tenants would be paying a similar amount for a similar home, regardless of the type of social landlord.</p>
<p>Nomination agreements</p> <p>Housing authorities must comply with the requirements of Part 6 of the 1996 Housing Act when</p>

<p>Term and attempt at “plain English” explanation...!</p> <p>they nominate an applicant to be the tenant of a Private Registered Provider. A housing authority nominates a person to accommodation held by a Private Registered Provider when it does so 'in pursuance of any arrangements (whether legally enforceable or not) to require that housing accommodation, or a specified amount of housing accommodation, is made available to a person or one of a number of persons nominated by the authority'.</p> <p>Nomination agreements should set out the proportion of lettings that will be made available; any criteria which the Private Registered Provider has adopted for accepting or rejecting nominees; and how any disputes will be resolved. Housing authorities should ensure that robust monitoring arrangements are in place to monitor effective delivery of the terms of the nomination agreement. This will be crucial, to ensure that housing authorities can demonstrate they are meeting their statutory obligations.</p>
<p>Private registered provider</p> <p>See Housing association</p>
<p>Probationary tenancy</p> <p>See Introductory (starter) tenancy</p>
<p>Reasonable preference</p> <p>In framing their allocation scheme to determine priorities in the allocation of housing, housing authorities must ensure “reasonable preference” is given to people who:</p> <ol style="list-style-type: none"> (a) Are homeless (b) Are owed a duty by any housing authority or who are occupying accommodation secured by any housing authority (c) Are occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions (d) Need to move on medical or welfare grounds, including grounds relating to a disability, and (e) Need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship (to themselves or others).³
<p>Registered provider</p> <p>See Housing association</p>
<p>Registered social landlord</p> <p>See Housing association</p>
<p>Right to Acquire (for housing association tenants)</p> <p>The Localism Act extends the Right to Acquire to tenants with an assured shorthold tenancy, subject to the usual qualifying criteria. Secondary legislation will be made shortly which sets out regulations excluding certain types of assured shorthold tenancy from the Right to Acquire. The intention is that the following will be excluded:</p> <ul style="list-style-type: none"> • Tenancies with a fixed term of less than two years • Intermediate rent properties • Mortgage rescue properties. <p>The Right to Acquire will not extend to existing assured shorthold tenancies granted before April 2012.²</p>
<p>Right to Buy (for local authority tenants)</p> <p>No changes are being made to the Right to Buy as a direct result of the government’s tenure reforms. However, the government has announced that it is their intention to reform the Right to Buy by increasing the discounts available and ring-fencing the money raised from sales to help fund new development. The Right to Buy will extend to flexible tenancies subject to the current qualifying criteria.²</p>
<p>Secure tenancy</p> <p>In general, secure tenants live in self-contained accommodation, with the tenancy starting before 15 January 1989. However, there are some exceptions, including if:</p> <ul style="list-style-type: none"> • the tenancy has been demoted because of antisocial behaviour • they live in a hostel or supported housing run by a housing association • the property was transferred from the council to a housing association via stock transfer

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- they work for the council and your home comes with your job
- they have changed housing association following a mutual exchange after 15 January 1989
- they are the tenant of a housing co-operative or a non-mutual housing association.

If the tenant moved into the current home after 15 January 1989 but had a secure tenancy in a different property owned by the same association before that date, the tenancy is probably still secure.

Housing associations that are registered with the [HCA](#) have to provide a written tenancy agreement for all new tenants. It should state clearly what kind of tenancy they have and explain your rights and responsibilities. The housing association can't normally make changes to the tenancy agreement without the tenant's written consent.¹

The term 'Secure tenant' includes a person with a flexible tenancy granted under s.107A of the Housing Act 1985.

Social rented housing

Rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime. The proposals set out in the Three Year Review of Rent Restructuring (July 2004) were implemented as policy in April 2006. It may also include rented housing owned or managed by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the [Homes and Communities Agency](#) as a condition of grant.¹

Starter tenancy

See [introductory tenancy](#)

Succession

Housing associations – assured shorthold tenancies

There are no statutory succession rights for fixed term tenancies until the provisions of the Localism Act come into force in April 2012. Until then the statutory succession rights for a spouse or partner in section 17 of the Housing Act 1988 only apply to periodic tenancies. The Localism Act amends this, so that succession rights will apply regardless of whether the tenancy is periodic or fixed term.

Local authorities – secure and flexible tenancies

The Localism Act reduces automatic statutory rights of succession for all new secure tenancies (including flexible tenancies).

From April 2012, there will only be a statutory right of one succession to a spouse or partner. There will be no statutory right of succession for other family members.

However, the Act does for the first time give local authorities the power to grant additional contractual succession rights if they so choose in their tenancy terms. Housing associations can and do already do this where they choose to. No changes are being made to secure tenancies which begin before April 2012.²

Supported housing

Support in the homes can help tenants and residents to:

- maintain or increase independence, for example for older people, or people with disabilities
- set up home for the first time, for example a young single parent or care leaver
- tackle mental health, drug or alcohol issues
- avoid homelessness.

The rights tenants have depend on the kind of accommodation in question and, if rented, who the landlord is.¹²

Temporary accommodation

Some types of accommodation may be specifically aimed at use for a short period of time for each tenant or licensee, for example hostels, women's refuges, intense support units, move-on accommodation and foyers.

In general, temporary housing is arranged by the council after a person makes a homelessness application and before the local authority offers a permanent tenancy, through the housing needs

¹ http://england.shelter.org.uk/get_advice/renting_and_leasehold/housing_association_tenancies/secure_tenancies

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register. Even if the resident has been living in temporary accommodation for several years, it may still be on a temporary agreement.

Most people living in temporary accommodation are “occupiers” with basic protection or “excluded occupiers”. Or they may have a license which gives them personal permission to live there; rather than a tenancy (which gives a legal right).

Most people living in temporary housing have basic protection from eviction but it is possible to be an “excluded occupier” if:

- it is a hostel owned or managed by the council, or
- the council hasn't made a decision about a homelessness application yet (for example, if they are still looking into the application but have arranged emergency or interim housing while they do this).

If someone is living in emergency or interim accommodation, they must be given reasonable notice if the council wants them to leave, though this could be only for a short period. Depending on its decision on your homeless application, the council may have a duty to accommodate the resident elsewhere.¹³

Tenancy policy

The draft Tenancy standard sets out that housing associations and stock-holding local authorities must publish ‘clear and accessible’ policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions and to tackle tenancy fraud. Tenancy policies must set out:

- The type of tenancies they will grant
- Where they grant tenancies for a fixed term, the length of those terms
- The circumstances in which they will grant tenancies of a particular type
- Any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period
- The circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property
- The way in which a tenant or a prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term
- Their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, households with children, including through the provision of tenancies which provide a reasonable degree of stability
- The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy
- Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.³

Tenancy strategy

Section 150 of the Localism Act 2011 requires local housing authorities to prepare and publish a tenancy strategy, by law. There is no prescription on content or format but it must set out the matters to which registered providers in the area are to “have regard to” when formulating their tenancy policies.

The strategy must summarise tenancy policies or explain where they may be found. Local authorities must send a copy of the draft tenancy strategy to every private registered provider in the area and give them an opportunity to comment on it.³

Tenants ending a fixed term during the fixed term

Local authority tenants; A tenant may give 4 weeks’ notice in writing to end a flexible tenancy during the fixed term on a date specified in the notice. The local authority can agree to dispense with written notice or agree to shorten the length of the notice. However, the tenant can only terminate the tenancy unilaterally if on that date there are no outstanding arrears or other breach of tenancy.

Housing association tenants: There is no similar statutory provision for tenants to end a fixed term assured shorthold tenancy prior to the end of the fixed term. The ability for a tenant to serve a notice to end the tenancy applies to periodic assured shorthold tenancies only. A contractual

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provision can be written into the tenancy agreement however. The principle of surrender does apply, but it must be agreed by both parties. Surrender can happen by operation of law, and can be express or implied. The landlord can accept the surrender by taking back the keys after the tenant has left. There does not always have to be express agreement.²

Transfers

The [TSA's](#) draft revised Tenancy standard states that tenants with an existing social tenancy on the day the main tenure reform provisions in the Localism Act come into force (expected to be April 2012) must be given ‘a tenancy with no less security where they choose to move to another social rented home’.

If the Tenancy standard is implemented in its current form, this will mean that existing tenants’ security of tenure will be protected should they transfer to another social rented home. However, please note that this does not apply to tenants granted a traditional ‘lifetime’ tenancy after the relevant section of the Localism Act comes into force.

The standard also says that ‘*this requirement does not apply where tenants **choose** to move to accommodation let on Affordable Rent terms*’. In those circumstances an existing tenant, with an assured or secure tenancy, could be offered a fixed term tenancy. However, where tenants are required to move to a property on Affordable Rent terms, for example as a result of a demolition, landlords will be required to provide another tenancy with no less security.²

Tenant Services Authority (TSA)

The Tenant Services Authority is “the independent regulator for affordable housing in England. Access to good-quality housing improves lives and is a foundation of strong communities. We work with social-housing landlords (these are landlords who do not operate on a purely commercial basis) and tenants to improve the standard of service for tenants and residents. As the new regulator, we have taken a radically different approach to regulating a sector that provides homes for more than eight million people in over four million homes. In place of thousands of pages of red tape, made up of over 50 detailed circulars and guidance notes, we have set out six clear standards focused on outcomes.”

Webpage: <http://www.tenantservicesauthority.org/>

¹ “PPS3: Housing” found at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918430.pdf>

² Lerner, Pipe, Tucker; “*The practical implications of tenure reform*” Chartered Institute of Housing; Coventry; January 2012. Website:

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