

East Riding of Yorkshire Council

Tenancy Policy 2019



*"Fairer Housing
Future Homes"*

East Riding Tenancy Policy 2019

Implementation date: 1st Feb 2020

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I Introduction

- I.1 The Localism Act 2011 introduced a number of new flexibilities for local authorities to consider when deciding how to make best use of existing social housing. These included the option to grant secure tenancies for a fixed length of time to new tenants.
- I.2 A fixed term tenancy is a tenancy that lasts for a defined period of time at the end of which the landlord will decide whether to bring the tenancy to an end or grant a further one. In social housing the fixed term must be at least two years.
- I.3 East Riding of Yorkshire Council recognises that the supply of housing at a low rent for life is a limited resource, and the Council's Tenancy Strategy 2019 sets out a framework for the use of flexible fixed term tenancies in social stock across the East Riding.
- I.4 This East Riding Tenancy Policy 2019, which applies to the letting of Council owned homes, has been developed in accordance with the provisions of the Council's overarching Tenancy Strategy 2019, and provides an update to the Tenancy Policy 2012.
- I.5 It sets out the Council's policies relating to:
 - the type and length of tenancies the Council is to offer;
 - the Council's policy on succession rights; and
 - the Council's policy on assignment.
- I.6 The Policy takes account of the needs of those who are vulnerable by reason of age, disability or illness, and households with children, providing them with a reasonable degree of stability.
- I.7 The Tenancy Policy should be considered alongside the Council's Tenancy Strategy 2019 and Allocation Policy 2013 (Homelessness Reduction Act Interim Refresh 2018).

2 Type and length of tenancies the Council is to offer

- 2.1 The Council recognises that whilst affordable housing is a scarce resource which needs to be carefully managed, it is important to maintain stable, sustainable communities.
- 2.2 The Council will offer lifetime secure tenancies to all new tenants who are eligible and housed in designated sheltered and supported accommodation,¹ and to other tenants aged 60 or over. Where a new tenant is entitled to an offer of a lifetime secure tenancy, the offer is made on the basis that the applicant does not have a financial interest in another permanent residence. If they do, they will be offered a five year fixed term tenancy, pending the sale of the property. When the tenancy is reviewed, and provided the property has been sold, a lifetime secure tenancy will be offered.
- 2.3 The Council will grant lifetime secure tenancies to all households renting general needs properties comprising fewer than 3 bedrooms. However, in order to best manage housing stock which is in high demand, the Council will continue to offer flexible fixed term tenancies to households who occupy homes comprising 3 bedrooms or more, or homes which have been designed or substantially adapted² to meet the needs of an occupant using a wheelchair. (Tenants of sheltered or supported accommodation that has been designed or adapted for the needs of an occupant using a wheelchair will be offered a lifetime tenancy in accordance with para 2.2 above).
- 2.4 Where tenancies of these types of unit are offered to families with one or more child(ren) under the age of 16, applicants will be offered flexible fixed term (secure) tenancies ranging between five and twenty-one years in length. The length of the fixed term will be based on the age of the youngest dependent child. For example, a family with the youngest child aged three years will be offered an 18 year tenancy, and a family with the youngest child aged seven will be offered a 14 year tenancy.
- 2.5 Applicants who are offered flexible tenancies have the right to request a review of the decision relating to the length of the tenancy offered. The review may only be requested on the basis that the length of the term does not accord with the policy on length of tenancy.
- 2.6 A review request must be made within 21 days beginning with the day on which the applicant first receives the offer. This review will be undertaken by a senior officer who was not involved in the original decision.

¹ This does not include temporary accommodation, where a licence will be issued.

² Through floor lift, accessible bedroom and bathroom, or purpose built house or extension

3 Review of flexible tenancies and grant of a further tenancy

- 3.1 Flexible tenancies will be reviewed six to seven months before the end of the fixed term, at which point the circumstances of the tenant and household will be revisited.
- 3.2 If, in line with the Council's Allocations Policy (ie if they are considered as a new Council tenant), the accommodation remains suitable for the household and matches their current need then a new flexible fixed term tenancy for a minimum of five years may be offered. However, if at review the tenant does not meet the Qualification Criteria set out within the Allocations Policy due to being in breach of tenancy conditions³ then a new tenancy will not normally be offered. Each case will be treated on its own merits.
- 3.3 In order to provide certainty to the tenant, where a new tenancy is offered and the rent account is clear, this may be granted before the original tenancy expires ie it will be a surrender and re-grant. So the new fixed term could run for a maximum of 5 years 7 months. In all other cases the new tenancy will begin at the end of the original tenancy.
- 3.4 If the tenant's household meets the Qualifying Criteria and is deemed to be under occupying accommodation which is in low demand, the granting of a further discretionary tenancy may be considered. However, where the household is occupying a tenancy in high demand, or the accommodation is no longer considered suitable, then a new tenancy will not be offered.
- 3.5 In this case, during the remainder of the tenancy it is expected that an offer of suitable alternative accommodation will be made, on the basis of a new flexible fixed term tenancy for a minimum of five years to begin at or before the end of the original tenancy. Tenants offered alternative accommodation as their home is deemed to be too large for their needs or otherwise unsuitable will continue to be eligible to apply for removal assistance as set out in Section 8 of the Housing Assistance Policy.
- 3.6 In the event that suitable alternative accommodation is not available, a further two year fixed term tenancy will be offered at the existing address. During this period the Council will endeavour to identify suitable alternative accommodation. If suitable accommodation is offered to the tenant and subsequently refused, the tenancy will not be renewed. Alternatively if the Council is not able to identify suitable accommodation during this time period, a further two year fixed term flexible tenancy will be granted, and tenancies will continue to be offered on this basis until suitable alternative accommodation can be offered.
- 3.7 Where a tenancy is not being renewed, the Council will serve notice on the tenant at least six months before the end of the fixed term setting out why another tenancy will not be granted and offering a right of review of that decision. This review must be requested within 21 days of the service of the notice and

³ See Allocations Policy 2013 (Homelessness Reduction Act Interim Refresh 2018) or later version

will be undertaken by a senior officer who was not involved in the original decision.

- 3.8 A Notice Requiring Possession of the property will need to be served before the tenancy comes to an end or on the day that it comes to an end which gives the tenant 2 months' notice.
- 3.9 Advice and assistance will be offered by the Council to help the tenant find alternative housing.

4 Succession

Tenancies prior to 1st April 2012

- 4.1 Secure tenants whose tenancy began prior to 1st April 2012 will usually have the right for their spouse, civil partner or another family member to succeed to their tenancy upon their death. A person is qualified to succeed a tenant if he/she occupies the property as his/her only or principal home at the time of the tenant's death and is either the tenant's spouse or civil partner or is another member of the tenant's family and has lived with the tenant for at least twelve months prior to their death. This does not need to have been in the same property. For the purposes of the law a cohabiting partner is regarded as a family member. Family member also includes a parent, grandparent, child, brother or sister, aunt/uncle and nephew or niece.
- 4.2 Where there is more than one person who may have a right to succeed, then if the tenant was married, their spouse takes precedence. If the tenant was not married, then the family members must decide who succeeds. If they cannot decide, then the Council can choose.
- 4.3 There is only one right in law to succeed. Second or subsequent successions are at the discretion of the local authority. For secure tenants with tenancies beginning prior to April 2012 the Council currently allows second successions in limited circumstances which are:
- i) Where the property would not be under occupied;
 - ii) Where the succeeding tenant has lived continuously within the property for the last five years; and
 - iii) If the property is sheltered or supported housing, then the succeeding tenant must be able to meet the lettings criteria for the scheme.
- 4.4 The policy allows for a right of appeal where a succession is refused. This is heard by the Appeals Committee.

Tenancies from 1st April 2012

- 4.5 In accordance with the Localism Act 2011, from 1st April 2012 new secure tenants will continue to be limited to one succession to a spouse or partner only. Children and other members of the tenant's family will no longer have an automatic legal right to succeed.
- 4.6 If the tenant did not have a spouse or partner, the Council will allow a discretionary succession to a family member provided that the person has lived with the tenant for at least five consecutive years immediately preceding the tenant's death. Cases where the family member has lived with the tenant for more than 12 months but less than five consecutive years immediately preceding the tenant's death will be considered on an exceptional basis at the discretion of the Director of Communities and Environment, taking into account the needs of vulnerable family members. A family member is defined as a parent, child, brother or sister, aunt / uncle, nephew or niece.

- 4.7 However, if the current property would be under occupied or is not considered appropriate for the successor, for example if the property is sheltered or supported accommodation and the successor does not meet the lettings criteria for the scheme, then a discretionary allocation to alternative suitable accommodation will be offered.
- 4.8 Following a succession to a spouse or partner, the Council will consider a second succession to a family member in limited circumstances. These are where:
- i) the property would not be under occupied;
 - ii) the succeeding tenant has lived continuously in the property for the last five years; and
 - iv) the property is sheltered or supported housing, and the succeeding tenant is able to meet the lettings criteria for the scheme.
- 4.9 The policy allows for a right of appeal where a succession is refused. This is heard by the Appeals Committee.

5 Assignment

- 5.1 By law the Council can only assign properties on mutual exchange, succession or as part of matrimonial proceedings. A secure tenancy cannot be assigned in any other circumstance.
- 5.2 In situations where a tenancy is held by joint tenants, and where both joint tenants confirm in writing that one of them wishes to transfer their interest in the joint tenancy to the other party, then the Council will agree to the transfer so long as there are no outstanding tenancy breaches, and there are no current tenancy enforcement proceedings in the County Court. A transfer of tenancy in these particular circumstances will take effect as the grant of a new tenancy agreement, it will not be an assignment.
- 5.3 Where a sole tenant requests that an additional name be added to their tenancy this can only be achieved through the surrender of the original tenancy and grant of a new tenancy in joint names. The Council may agree to this so long as there are no outstanding tenancy breaches, and there are no current tenancy enforcement proceedings in the County Court. The request is unlikely to be granted if there has already been a succession on the tenancy. Both parties will need to confirm their wishes in writing and each case will be viewed on its own merits.
- 5.4 In the case of a mutual exchange, it is important that, in line with the Localism Act 2011, all Registered Providers ensure that a tenant who wishes to transfer and has a secure or assured tenancy which began before 1 April 2012 will retain similar security of tenure to that of their original tenancy. For example, a tenant with a lifetime secure or assured tenancy which began before 1 April 2012 retains a similar level of security even if they exchange with a tenant with a fixed term or flexible tenancy.

6 Policy Review

- 6.1 The Tenancy Policy will be reviewed every five years. An additional outcomes review will be completed in 2022.
- 6.2 For further information on this policy, please contact the Housing Strategy and Development Team at the address below or by telephoning 01482 393949.

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