



# Tenancy Management Policy

## **1. INTRODUCTION**

This Tenancy Management Policy incorporates, and expands upon, our previous Tenancy Policy so as to comply with current regulatory standards.

## **2. RELEVANT LEGISLATION AND REGULATION**

Tuntum will ensure that it manages tenancies in accordance with best practice and relevant policy and legislation, including the following:

- Housing Act 1980
- Housing Act 1985
- Housing Act 1996
- Matrimonial Causes Act 1973
- Matrimonial and Family Proceedings Act 1984
- Children Act 1989
- Civil Partnerships Act 2004
- Crime and Disorder Act 1998
- Anti Social Behaviour Act 2003
- Equalities Act 2010
- Disability Discrimination Act 2005
- Localism Act 2011

## **3. NON DISCRIMINATORY PRACTICE**

Tuntum's staff and contractors will operate their tenancy management in such a way as to ensure that their procedures and practices are sensitive to the needs of individual residents, and in particular, that they do not discriminate on the grounds of:

- ethnicity
- age
- disability
- religion, belief or lack of belief
- gender
- sexual preference
- gender identity

which form the seven strands of the Equalities Act 2010.

## **4. BACKGROUND, POLITICAL & LEGAL CONTEXT**

Tuntum, like the vast majority of housing associations, currently offers new tenants an introductory tenancy (sometimes called a 'starter' or 'probationary' tenancy) for a year. Technically this is a short hold tenancy.

And then, unless Tuntum ends this at the 12 month stage (which we would normally only do if there were high rent arrears or another serious tenancy breach) this automatically converts to a weekly periodic tenancy: that is, the period of the tenancy is a week but it continues in perpetuity until brought to an end by the tenant giving notice to quit, or Tuntum gaining possession at court.

In effect this is a 'tenancy for life'.

The Government views the automatic offering of such 'tenancies for life' to all social housing tenants as wrong. (It should be noted that this flies in the face of the previous Government's policy, as directed through the Housing Corporation/Housing & Communities Agency, which sought to increase security of tenure.)

Their argument is that, given the scarcity of social housing and therefore high demand, it is wrong that some tenants who can afford private sector renting, shared ownership or outright home purchase, should continue to occupy social housing. By releasing it they both help those more in need of the tenancy and, if buying, stimulate the housing market.

#### **a) The Localism Act / revised Tenancy Standard**

To introduce a mechanism to allow the introduction of fixed term (also called 'flexible') tenancies the Government introduced clauses in the Localism Act to allow housing associations to offer fixed term tenancies on all re-lets from April 2012 (before than such fixed term tenancies could only be issued on new tenancies created by the affordable homes programme.)

When the tenancy nears its end a tenancy review is carried out by the landlord and if the tenant no longer *requires* the tenancy – even if the tenant would prefer to keep it – then the landlord may bring the tenancy to an end.

The former Tenant Services Authority also revised its Tenancy Standard to ensure that the provisions of the Localism Act are reflected in its regulatory framework. In the revised standard (which became operational from April 2012) the TSA directed as follows:

- (1) A Registered Provider (RP) must set out the types of tenancy they will grant, and in what circumstances
- (2) Any fixed term tenancies must generally be of 5 years or longer, but in exceptional circumstances (which must be defined) may be shorter.
- (3) No fixed term tenancy should be less than 2 years (in addition to any probationary period)

The introduction of flexible/fixed term tenancies will, of course, only apply to new tenants; existing tenants are unaffected.

#### **b) local authorities' tenancy strategies**

Under the Localism Act (s. 150) local authorities were required to draw up a tenancy strategy which expresses their view as to the use of fixed term tenancies. This is important for housing associations as, when they formulate their tenancy policy they must 'have regard to' the tenancy strategies of their local authority partners. Tuntum's tenancy policy attempts to have such due regard to our local authority partner's tenancy strategies.

The outlines of their strategies are as follows:

- (1) Nottingham City/Gedling/Broxtowe

These three authorities adopted a common approach -

- Periodic assured tenancies (i.e. 'tenancy for life') to be the norm.

- Flexible tenancies on an exceptional basis but may use this for large family houses for which there is high demand (i.e. for use by foster carers)
- Will generally tackle under-occupation by offering incentives rather than punitive action
- Would want any RP, when reviewing a fixed term tenancy, to base their decision on a range of factors and not just economic ones.

(2) Derby City

- Recommended the introduction of fixed term tenancies for new general needs tenancies but not sheltered or supported housing tenancies
- On tenancy review, assume renewal of tenancy unless an adapted property or under-occupation.
- Housing officers should not recommend ending a tenancy on economic factors alone.

(3) Leicester City

- Their position is not to support fixed term tenancies in any circumstances

(4) Charnwood Borough Council – tenancy strategy out for consultation

- They follow the regulatory guidance to the letter i.e. minimum 2 year tenancies, norm to be 5 year tenancies.
- On tenancy review, assume renewal and in particular renew tenancy where it is an adapted property or there are school age children in the family.

(5) Rushcliffe Borough Council

- 5 year fixed term tenancies to be offered as the norm
- On tenancy review, end the tenancy where there is under-occupation as family sized social housing is relatively scarce in the borough.
- Periodic assured tenancies (i.e. 'tenancy for life') to be offered to over 55 year old tenants and vulnerable people

**c) other local registered providers: their positions**

Nottingham Community HA

Fixed term tenancies only applied to affordable rent tenancies (i.e. applied to new homes built under the affordable rent programme and any re-lets converted to affordable rents.)

Derwent

As NCHA

Places for People

No fixed term tenancies in any circumstance

## Waterloo HA

Introduced 5 year fixed term tenancies as standard

## Nottingham City Homes (ALMO)

They will (predictably and logically) adopt the City Council's position as given above.

### **d) the view of the Tuntum Tenant and Leaseholders Association (TTLA)**

The issue of fixed term tenancies was an agenda item for the TTLA at their meeting of 19<sup>th</sup> October 2011.

After some discussion and a consideration of the merits of various lengths of tenancy they came to the following conclusions:

- (1) fixed term tenancies are a good idea in principle, but when the tenancy review is conducted at the end of the term there should be quite a 'high bar' to *not* renewing it for a further fixed term.
- (2) 5 years was agreed as a minimum term but a longer period (7 to 10 years) was preferred. .

### **e) factors considered in developing a tenancy policy**

- In 'having regard' to our local authorities emerging tenancy strategies we must in practice acknowledge Nottingham City's position above all others as 80% of our stock is within Nottingham.
- It would be impractical to develop bespoke tenancy policies for each local authority within which we operate.
- There is a degree of competition amongst RPs when we let accommodation. If it was the fact that Tuntum offered substantially less security of tenure than other local and regional housing associations then we may find our properties difficult to let.
- Fairness: our new tenants should be offered the best deal we can realistically make. However, we also have an obligation to those on 'waiting lists' to try and use our stock as efficiently as possible in meeting genuine need. These two need balancing against each other.
- Regulatory expectations: whilst the tenancy standard does not *mandate* the introduction of fixed term tenancies, Government policy in this area is clear – that in certain circumstances offering a tenancy for life is not appropriate.

## **5. RESULTING TENANCY POLICY**

(a) Tuntum will offer the following types of tenancy in the following circumstances:

<b>TYPE OF TENANCY</b>	<b>DURATION</b>	<b>TENANT GROUP</b>
Assured shorthold starter/ probationary tenancy	12 months	All new tenants
Assured tenancy ('tenancy for life')	Continues until ended by landlord or tenant	All existing tenants and new tenants paying social or affordable rents.  All social housing tenants transferring to Tuntum from another social landlord and who previously paid a social rent.  All sheltered housing tenants.
Assured short hold fixed term tenancy	5 years	New tenants paying an intermediate rent or market rent.
Secure tenancy	Continues until ended by landlord or tenant	Transfers from local authorities who have an existing secure tenancy

(b) We do not anticipate any circumstances in which we offer the 2 year minimum fixed term tenancy but reserve the right to issue this in exceptional circumstances. This tenancy can only be issued with the approval of the Director of Operations and will be retrospectively reported to the TSSC.

(c) For tenants on five year fixed term tenancies, we will contact the tenant at the end of the fourth year to confirm the date at which the fixed term comes to an end. We will advise them of when the tenancy review will take place, and details of the review process.

(d) Eight months before the end of the fixed term we will carry out a tenancy review. Six months before the end of the fixed term we will serve on the tenant a notice formally stating that we will be either extending the tenancy by a further 5 years or requiring possession of the property.

(e) We will not normally end a fixed term tenancy if the following obtain:

- The tenant or a joint tenant is 60 years of age or older
- School-age children are part of the household
- The tenant or joint tenant provides informal care to someone in the immediate neighbourhood
- The tenant or joint tenant is in local employment and to move address would jeopardise this.
- Under-occupation is by one bedroom only.

- The property has been adapted for a disabled tenant or household member who currently benefits from the adaptation.
- The tenant or joint tenant is a person classed as vulnerable. This may be because of a personal characteristic (e.g. they suffer a disability or chronic ill health); or circumstance (e.g. a continuing victim of domestic violence) or that they need informal or formal support to manage their tenancy. In determining whether a tenant falls into this category of vulnerability the housing officer should seek objective evidence e.g. letters from a GP or the police.

(f) The final decision to end a five year fixed term tenancy will be made by the Head of Housing. We will only end the tenancy if, by taking a holistic view that there is insufficient need for the tenancy to continue. There will always be a presumption that the tenancy will continue

(g) A tenant may appeal against the decision to end a fixed term tenancy. To do this they must write to or e-mail the Head of Housing. The appeal will be considered by both the Head of Housing and Director of Operations. Whilst their decision is considered final, the tenant is able to use Tuntum's complaint procedure at any time if they believe there has been a procedural error in making this judgement.

(h) Where a fixed term tenancy is ending Tuntum will offer the following assistance to the tenant:

- (1) Provide information of other housing options within our own stock including renting and low cost home ownership;
- (2) Assist them in bidding for other social housing properties via local choice-based lettings schemes;
- (3) Advise them on how to access web-based national mobility schemes

(i) Where we renew a five year fixed term tenancy, not less than 2 months before the end of the original term we will serve a formal notice on the tenant ending the tenant's right to occupy after the end of the fixed term. At the same time we will enter into a new tenancy to run consecutively to ensure the household retains its rights as a fixed term tenant.

(j) We will grant discretionary succession rights, above and beyond statutory succession rights, to any household member where there is a substantial degree of vulnerability and this can be clearly evidenced (e.g. by GP report etc.)

## **6. SUSTAINING TENANCIES & PREVENTING EVICTIONS**

As part of its tenancy management Tuntum will place equal emphasis on supporting tenants to remain in their tenancy for as long as they chose, and minimising the number of evictions.

Our Rent Arrears Policy has the following as one of its four objectives:

### ***Tenancy sustainment***

*We want to help tenants to sustain their tenancies and remain in their homes. This is why we make great efforts to firstly prevent rent arrears, and then, if they do arise, work with the tenant to clear them.*

That policy (to which the reader is referred) goes on to detail how we aim to sustain tenancies of those tenants in rent arrears.

The Head of Housing reports quarterly to the Tenant Services Scrutiny Committee (TSSC) on the number of evictions per quarter. This gives the TSSC oversight of how effective we are in minimising these, and enables them to monitor any trend.

## **7. VULNERABLE HOUSEHOLDS**

### **a) general considerations**

In managing our tenancies we will take account the needs of any household which contains vulnerable people (who may not hold the tenancy.) In particular we will be sensitive to households containing:

- children
- disabled adults or children
- older people (over 55)
- people who are either chronically or acutely ill

We will seek to offer such households the most secure form of tenure that is available to them, and is appropriate to their needs so as to give the household maximum stability.

We will also presume against ending a fixed term tenancy where the tenant or joint tenant has a vulnerability (see 5 (e) above.)

### **b) joint tenancies and domestic abuse**

Where a tenant holding the joint tenancy of a property flees their home as a result of domestic abuse from their spouse/civil partner/co-habitee, and has had their application for re-housing under Part VI of the Housing Act 1996 accepted and provides us with the correct notice to quit, we will undertake investigations into the conduct of the tenancy. Where we consider that there is evidence to support allegation of domestic abuse we will:

- inform the remaining tenant that notice to quit has been received and that their tenancy will terminate on its expiry date;
- where there are dependent children present in the home, refer the case to the relevant Social Care Referral and Assessment Team;
- inform the remaining tenant that we are unlikely to have any obligation to offer them alternative accommodation under the provisions of the Housing Act 1996. If, following the expiry of the notice to quit, the former tenant is still in occupation of the accommodation, we will regard them as unauthorised occupiers and seek possession through court action.



### **c) granting discretionary succession rights**

Succession of tenancy is governed by section 87 of the Housing Act 1985. This states that a person is qualified to succeed to the tenancy if he/she occupies the dwelling house as his/her only or principal home at the time of the tenant's death and is either:

- the tenants spouse; or
- another member of the tenant's family and has resided with the tenant throughout the period of the twelve months ending with the tenant's death.

However, where a household contains a vulnerable person who has no legal right to succession we will grant a new tenancy where the following requirements are met:

- (a) the person would be homeless if we sought possession of the property and;
- (b) the late tenants' tenancy had been conducted in a satisfactory manner.

## **8. PREVENTION OF TENANCY FRAUD**

Tuntum has a corporate Anti-Fraud and Corruption Policy Statement and our work in preventing tenancy fraud is within that overall corporate remit.

Tenancy fraud is most prevalent in high rent / high demand areas (e.g London) where illegal subletting of social housing can yield big financial returns. In areas such as the East Midlands where rents are slightly below the national average, there is less incentive to commit tenancy fraud and therefore it is less common.

Because of this we have adopted a value for money approach to our procedures, balancing risk of fraud against resource expenditure.

Our tenancy fraud prevention work includes:

- signing up tenants in person and requiring proof of their ID; proof of their right to live in the UK; and eligibility for benefits
- that we have on file a photograph of the tenant / joint tenants
- ensure that those members of staff who are most in contact with our tenants (e.g. our maintenance operatives) have instructions to report to housing management any unusual circumstances which may indicate tenancy fraud (for example, that 'visitors' always seem to be present but not the tenant)
- every three years, in partnership with a large credit agency, we run a check on names/addresses which will identify those tenants with more than one address and/or name. We will then investigate these tenants to ensure that tenancy fraud is not being perpetrated.

***THIS POLICY WILL BE REVIEWED EVERY THREE YEARS***



