

Draft

Tenancy Policy 2023

Service Area: Housing Services
Head of Service: Paul Whittingham
Date: June 2023



Version Control

| Version | Reason for review (review date/legislation/process changes) | Author (A) / Reviewer (R) | Effective date |
|---------|--|------------------------------------|----------------|
| 1.0 | Legislation Changes | Lyndsay Taylor (A)/Sally Damms (R) | 31.10.2022 |
| | Update of Tenancy Strategy 2016 | Lyndsay Taylor (A)/Sally Damms (R) | 31.10.2022 |

Approvals

| Approved by (Committee/Leadership Team) | Date |
|--|--------------|
| Housing & Community Services Committee – Draft approval for consultation | 17 08 2023 |
| Housing & Community Services Committee – Final approval | [16 11 2023] |
| | |

1.0 Content

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2.0 Introduction

2.1 The Localism Act 2011 sought to expand the use of fixed term tenancies in the affordable housing sector in England. As the range of tenancy options increased, the Localism Act 2011 required local housing authorities in England to prepare and publish a Tenancy Strategy (“Tenancy Strategy”) setting out the matters to which the Registered Providers (“Registered Providers”) of social housing (including the Council as provider) for its District are to have regard of in formulating policies to:

- the type of tenancies they grant
- the circumstances in which they will grant a tenancy of a particular kind
- where they grant tenancies for a fixed period
- the circumstances in which they will grant a further tenancy towards the end of an existing tenancy

2.2 Since the introduction of the Localism Act 2011 new legislation has been enacted that impacts on the types of tenancies that should be offered by Local Authorities and Registered Providers, namely:

- The Housing & Planning Act 2016
- The Homelessness Reduction Act 2017
- The Secure Tenancies (Victims of Domestic Abuse) Act 2018

2.3 The Tenancy Strategy 2023 is based on The Localism Act 2011 and the new legislation as described in 2.2 above to allow affordable Registered Providers more freedom to:

- Continue to grant lifetime tenancies either for all or specific household groups/property types/locations;
- Provide new tenants with a fixed term/flexible tenancy (and this also means and includes references to flexible tenancies and vice versa) where it is believed to be more appropriate than a lifetime tenancy;
- Establish the length of the fixed term tenancy to be offered;
- Develop their own Tenancy Policy setting out the criteria to be issued in determining whether to issue a new tenancy at the end of any fixed term;
- Let new build homes or re-let of existing homes under the new affordable rent tenure, which allows for affordable Registered Providers to charge higher rent levels (up to 80% of market rents).

2.4 South Derbyshire District Council’s Tenancy Strategy (agreed by the Housing and Community Services Committee in **November 2023**) has been developed within the context of the Council’s overall Corporate Plan 2020-24 and its strategic priority:

“Our People - Working with Communities and meeting the future needs of the District by:

- *Engaging with our Communities*
- *Supporting and Safeguarding the most Vulnerable*
- *Delivering Excellent Services.*

2.5 With a retained landlord function South Derbyshire District Council Housing Services has a duty to publish a Tenancy Policy which describes the types of tenancies we will offer and the way in which these tenancies will be managed.

2.6 The Tenancy Policy has been developed with full regard to South Derbyshire District Council's Tenancy Strategy. The policy follows the principles and objectives of the Tenancy Strategy and should be read in conjunction with it.

2.7 This Tenancy Policy sets out:

- The types of tenancies the Council will offer
- The circumstances in which tenancies will be granted
- The process for reviewing tenancies
- How succession rights will be managed
- The Council's approach to tenancy sustainment

2.8 This policy applies to all new tenancies that commence from [date to be confirmed following consultation].

3.0 Aims & Objectives

3.1 The Council will issue tenancies that are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of our housing stock.

3.2 The Tenancy Policy seeks to:

- Ensure our tenants and staff are aware of the types of tenancies offered
- Ensure that all our tenancies are transparent and fair
- Aid mobility and respond to the changing needs of our tenants
- Make best use of our housing stock especially by reducing under occupation and overcrowding and ensuring adapted homes are lived in by those who need them.
- Have regard to the Council's Tenancy Strategy
- Provide all tenants with the advice and support needed to be able to manage their tenancies satisfactorily

4.0 Local Context

4.1 South Derbyshire is a largely rural District at the heart of the National Forest. It is one of the fastest growing areas in England with a current population of over 105,000. This is set to grow by nearly 15% between 2019 and 2028 to increase this total to over 120,000 people. The majority of people within the District live in the private sector (84.9%), with 73.8% owning their own home and 11.6% private renting. Only 15.1% of households live in social rented housing.

4.2 There are currently 45,085 homes within the District.

Affordable Housing

4.3 Over the last five years the Council have delivered new affordable housing through the following mechanisms:

- Negotiation of section 106 agreements for new housing developments
- Supporting Registered Providers to delivery new homes with Homes England grant funding

- Direct delivery of new Council Housing through acquisition and new build schemes on Council owned land.

4.4 Key facts about affordable homes in South Derbyshire

- There are 4,733 social rented homes in the District (15.1% of all homes in the District)
- The Council owns 2,952 of these homes
- Alongside the Council, there are 14 Registered Providers that have housing stock within the District of South Derbyshire
- The Council works closely with its Registered Provider partners to provide affordable housing to people on the Council's waiting list

5.0 Types of Tenancies to be offered

5.1 Introductory Tenancies

5.1.1 New tenants will be introductory tenants for the first year of their tenancy. Their tenancies will become fixed term or secure tenancies at the end of this period provided the introductory tenancy's conditions have not been broken.

5.1.2 All introductory tenants will receive a tenancy agreement setting out the introductory tenancy period and indicating the type of tenancy to be granted at the end of the introductory period, subject to there having been no breach of the tenancy agreement during the introductory tenancy period.

5.1.3 New tenants who are transferring from another social or affordable home, whether with the Council or another social landlord, will not normally be offered an introductory tenancy if they are a secure or assured tenant or hold a fixed term tenancy.

5.1.4 At the end of a twelve-month introductory period, the tenant will usually be granted a lifetime tenancy, or in exceptional circumstances, a fixed tenancy. Alternatively, the Council may extend the tenant's introductory period, if the Council considers that the tenant would benefit from additional time to demonstrate that they can keep to tenancy terms or to clear rent arrears.

5.1.5 An introductory tenancy may be brought to an end if the tenancy terms are broken. This includes where tenants commit crime, or anti-social behaviour, or fail to pay their rent.

5.2 Secure/Lifetime Tenancies

5.2.1 Lifetime tenancies are intended for:

5.2.1.1 All existing tenants of South Derbyshire District Council ("the Council") or those of Registered Providers who currently have a lifetime tenancy agreement.

5.2.1.2 New lettings to designated supported older person accommodation.

5.2.1.3 Tenants who have successfully completed their introductory tenancy unless the Council considers it appropriate to grant a fixed term tenancy.

5.3 Temporary Agreements

5.3.1 These agreements are short-term usually for no more than 12 months, which give a tenant the right to stay in a scheme such as hostel/supported or temporary housing until they are ready to be re-housed

5.4 Fixed Term Tenancies

5.4.1 A Fixed Term tenancy is a tenancy for a fixed period, as created under the Localism Act 2011. Although it contains many features of a secure tenancy, the main difference is that a secure tenancy can only be brought to an end by the landlord if a court order is granted, and the court considered possession reasonable. With a Fixed Term tenancy, the court must award the landlord possession as long as the fixed term has expired, the correct notices have been served and any appeal has been considered.

5.4.2 The Council will not grant Flexible or Fixed Term Tenancies and will grant a Secure or Lifetime Tenancy for all tenants following the successful completion of the introductory tenancy period.

5.4.3 Older people living in designated supported accommodation schemes will be offered secure lifetime tenancies.

6 Succession

When a tenant dies the tenancy can sometimes be passed on to another member of the family and this is known as succession. There are different succession rights in law for different types of tenancies and this is known as a statutory succession.

6.1 Secure Tenancies Granted before 1st April 2012.

6.1.1 The law allows for one statutory succession to either:

6.1.1.1 The deceased tenant's spouse or civil partner provided they were residing with the deceased tenant at the time of their death as their main home, *or*

6.1.1.2 A member of the deceased tenant's family who had been residing with the deceased tenant for twelve months prior to the tenant's death as their main home.

6.1.2 Family members are defined as, parents, grandparents, children (including adopted children), grandchildren, siblings, uncles, aunts, nephews and nieces and partners. The law does not allow for joint succession, so if there are a number of potential joint successors they need to choose who will take over the tenancy. If they cannot choose, the landlord is able to do so. Where the successor is not a spouse or civil partner but is a member of the family and the property is too large for them, they can be granted the tenancy of a smaller property which meets their needs.

6.2 Secure Tenancies Granted on or after 1st April 2012.

6.2.1 The law allows one statutory succession to a spouse or civil partner of the deceased tenant, who was living with them at the time of the tenant's death as their main home.

6.3 Successor is unable to remain.

6.3.1 Where the property is too large, i.e., underoccupied for the statutory successor the Council will require them to move to an alternative property which meets their needs unless their circumstances are exceptional to ensure best use of Council housing stock. Schedule 2 to the Housing Act 1985 sets out the “Grounds” on which the Council can seek to evict a secure tenant. Only a court can decide whether a particular Ground is established and whether to issue a Possession Order. The Council would consider Ground 15A of Schedule 2 (the successor Ground). The housing need will be assessed in line with the Council’s Bedroom Standard in the Allocations Policy. The statutory successor can bid for alternative properties for six months after which time if no property is selected a direct offer will be made.

6.4 Discretionary Succession.

6.4.1 In certain circumstances if the tenant dies and there has already been one statutory succession at the property, the Council may allow a person or household to remain in the property. To be eligible the applicant must:

6.4.1.1 Be a spouse or civil partner of the deceased secure tenant and have lived with them as their main home for a minimum of one year, or

6.4.1.2 Be a family member defined as; parents, grandparents, adult children, grandchildren and brothers and sisters who have lived with the deceased secure tenant as their main home for a minimum of three years.

6.4.2 Where there is more than one person living in the household who is eligible for a discretionary succession, the Council expects the household to decide who should benefit. Provided that person meets the criteria outlined here, the Council will generally respect this choice. However, the final decision will be agreed by the Council.

6.4.3 Discretionary successors will only be able to remain in the original home if it is the size needed in accordance with the Council’s Bedroom Standard in the Housing Allocation Policy. If the discretionary successor is required to move they will be able to bid for an alternative property for six months after which time one direct offer will be made

6.4.4 If appropriate a new fixed term tenancy could be considered (following the successful completion of an introductory tenancy). This may be at the original home or another property depending on the size of property needed which will be assessed under the Council’s Bedroom Standard or any equivalent standard set out in the Housing Allocation Policy. If a property other than the original home is offered the applicant will be able to bid for a period of six months after which time one direct offer will be made. Upon expiry of a fixed term tenancy a further fixed term tenancy may be offered in line with the Tenancy Policy.

7 Supporting Tenants

- 7.1 The Council is committed to ensuring that tenants are well informed about their rights, responsibilities and how to access services. Information is available on the Council's website. The Council will consult tenants on all matters relating to the management of their homes.
- 7.2 The Housing Solutions Team provides advice and assistance to tenants who wish to move home.
- 7.3 Support for new tenants includes:
- 7.3.1 Information at the outset on what is expected of a tenant throughout their tenancy. For fixed term tenancies this will include information on when a new tenancy will be offered.
- 7.3.2 Visits to introductory tenants within six weeks of the start of their tenancy to ensure they have settled into their new home and to provide more detailed information on available services.
- 7.3.3 Regular communication with Housing Officers to make agreements to pay rent and arrears.
- 7.3.4 Tenancy support, welfare benefit and debt management advice through our Tenancy Sustainment Officer.
- 7.3.5 Housing related support through our Careline Support Co-ordinators.
- 7.3.6 Close working with the Department for Work & Pensions to ensure Housing Related benefit claims are assessed and paid promptly.
- 7.3.7 Referrals to appropriate agencies for tenants with social or mental health issues to help them to live independently.
- 7.4 Ending a tenancy and seeking possession for a breach of tenancy conditions is always a last resort and is only ever considered after all available support has been offered but has been declined or failed. Much of the support detailed above is designed to provide support at an early stage and prevent eviction. Even once possession is being pursued, support will continue to be offered, tenants will be clearly advised of the processes being followed, the seriousness of the situation and their legal rights.

8 Performance and Monitoring

The following local performance indicators will be used to monitor effectiveness of this policy:

- 8.1 Number of failed Introductory Tenancies within year.

9 Roles and Responsibilities

- **Consulted:**
- **Informed:**

| | |
|--|---|
| Responsible (<i>Service area who performs an activity or does the work</i>) | Accountable (<i>Service area which is ultimately accountable for the service being provided</i>) |
| <ul style="list-style-type: none"> • JOB ROLE/SERVICE AREA <p>Housing Officer:</p> <ul style="list-style-type: none"> • Granting of tenancies • Reviewing tenancies <p>Tenancy Services Manager:</p> <ul style="list-style-type: none"> • Hearing appeals • Approval of renewals if required • Complaints | <ul style="list-style-type: none"> • JOB ROLE/SERVICE AREA <p>Head of Housing</p> <ul style="list-style-type: none"> • Ensuring compliance with service & corporate objectives • Complaints |
| Consulted (<i>Services who need to be engaged and contribute to the policy</i>) | Informed (<i>Services or stakeholders that needs to be informed of the policy</i>) |
| <ul style="list-style-type: none"> • JOB ROLE/SERVICE AREA <p>Tenants Other Housing Staff outside of Tenancy Services</p> | <ul style="list-style-type: none"> • JOB ROLE/SERVICE AREA/ STAKEHOLDER <p>Council Staff</p> |

10.0 Sustainability Impact Assessment

| Our Environment | Potentially positive impact (Y/N) | Potentially negative impact (Y/N) | No disproportionate impact (Y/N) | Sustainable Assessments findings <i>(Please utilise the guidance provided for assessment findings.)</i> |
|---|-----------------------------------|-----------------------------------|----------------------------------|---|
| Improve the Environment of the District | | | Y | N/A |
| Tackle Climate Change | | | Y | N/A |
| Enhance the attractiveness of South Derbyshire | | | Y | N/A |
| Our People | | | | |
| Engage with Communities | | | Y | N/A |
| Supporting and Safeguarding the most vulnerable | Y | | | Vulnerable demographics eg elderly/disabled will have security of tenure without fear of having to move from their home at the end of a tenancy |
| Deliver Excellent Services | Y | | | Provide properties at the correct tenure for our tenants according to their circumstances to support them to maintain their tenancies and also make the best use of council stock |
| Our Future | | | | |
| Develop Skills and careers | | | Y | N/A |
| Support economic growth and infrastructure | | | Y | N/A |
| Transforming the Council | | | Y | N/A |

11.0 Policy Review

This Tenancy Policy will be subject to regular review and any changes will be agreed by the Housing & Community Services Committee. The Tenancy Policy will be reviewed every three years or sooner if the Tenancy Strategy 2023 is amended or circumstances and legislation change significantly.

12.0 Associated Documentation

| Description of Documentation | Document Reference |
|---|--------------------|
| SDDC Tenancy Strategy 2023 | |
| SDDC Allocations Policy 2020 | |
| SDDC Domestic Abuse Policy 2021 | |
| Localism Act 2011 | |
| Housing and Planning Act 2016 | |
| Homelessness Reduction Act 2017 | |
| Secure Tenancies (Victims of Domestic Abuse) Act 2018 | |