

# **Guildford Borough Council Tenancy Strategy**

**2020**

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## **1. Background**

- 1.1 Every Local Housing Authority in England had a duty to publish a tenancy strategy by January 2013 and then review this strategy thereafter. This strategy is an updated version of the Council's original Tenancy Strategy, required in law, following its initial publication and operation and subsequent consultation and review.
- 1.2 The strategy must set out all the matters that the Council, and all other social landlords operating in Guildford, must consider when they draw up their own individual policies on the types of tenancies they themselves will grant.
- 1.3 Social landlords include Private Registered Providers of Social Housing – known as Housing Associations, or simply as Registered Providers (RP's). All the social landlords operating in Guildford must have regard to the Council's tenancy strategy, when meeting their duty to state clearly what types and lengths of tenancy they will grant and in what circumstances.
- 1.4 The Council's statutory (legal) duty to review and publish the over-arching borough tenancy strategy, which includes our own approach to tenure, falls to the Housing Service and this strategy is the result of that review and consultation.

### **What needs to be in the strategy?**

- 1.5 The strategy must include everything that social housing landlords consider when drawing up their own tenancy policies, including:
  - different types of tenancies to be granted
  - circumstances under which these different types of tenancies will be granted
  - details of how long any fixed-term tenancies are granted and their length
  - circumstances in which a new tenancy will be given should any fixed-term tenancy expire.

### **What needs to be considered?**

- 1.6 The government regulator of social housing sets the Tenancy Standard that requires all social landlords to publish individual tenancy policies, which in turn determine tenancy types and tenancy lengths for new tenants and how they are reviewed on any expiry. Having a tenancy strategy allows the landlord to use fixed-term and flexible tenancies, which is useful if the landlord, amidst wider welfare reform, wishes to charge Affordable Rents (at 80% of the market rate), which this type of tenancy can support.
- 1.7 When deciding on type and length of tenancy, the landlord must think about:
  - what needs individual households have
  - efficient use of social housing stock
  - what the accommodation is for
  - community sustainability.

- 1.8 If fixed-term tenancies are given they should normally be for at least 5 years and any 'probationary' tenancies should initially be for 12 months, with a possible 6-month extension.

### **Reviewing the Tenancy Strategy**

- 1.9 The Council had to consult with all social landlords in Guildford, keeping in mind the Council's Allocations Scheme and its Homelessness Prevention Strategy, when it reviewed the strategy.

## 2. Introduction

- 2.1 The Localism Act 2011 introduced flexible tenancies as a form of tenancy for RP's. The act requires local authorities to produce a Tenancy Strategy setting out their position regarding these tenancies and what it expects of RP's in their local authority area in forming policies for:
- the kinds of tenancies they will grant
  - the circumstances in which they will grant tenancies of a particular type
  - where they grant flexible fixed-term tenancies; the length of terms
  - the circumstances in which a further tenancy may be offered at the end of the fixed term, in the same or a different property.
- 2.2 The Council's first Tenancy Strategy complied with the requirements of the Act and this updated strategy is result of the review of that original Tenancy Strategy.
- 2.3 Flexible tenancies offer a fixed-term, which in most cases is for a minimum of five years. The flexible tenancy supports the government's aim to move away from the 'tenancy for life' approach and, instead, provide social housing at a time of need and throughout the time of need, rather than permanently.
- 2.4 This approach recognises that social housing tenancies are prioritised for those with the greatest current need, such as overcrowding or homelessness. As, over time, this changes, resulting, for example, in homes being under-occupied or let to tenants who could afford to buy a home or rent privately, then so does prioritisation.
- 2.5 The Government intended the changes to assist all RP's to maximise effective use of their housing stock, and to help more people move on from affordable housing, should those tenants concerned be in a position to sustain an alternative housing solution, such as home ownership or accessing the private rented sector.
- 2.6 The introduction of flexible tenancies did not affect any tenants holding an existing lifetime tenancy.
- 2.7 The Council's Tenancy Strategy must have regard to the Council's own allocation Scheme and its Homelessness Prevention Strategy and, as the authority is still a stock holding authority, the strategy also sets out our policy for the use of such tenancies.
- 2.8 We have consulted with RP's, the Tenants Action Group (TAG), housing applicants and other stakeholders, so that their views can inform this strategy review.
- 2.9 We will continue to work in partnership to make sure that this tenancy strategy and local RP's tenancy strategies and/or policies meet local housing need.

### 3. Objectives of the Tenancy Strategy

3.1 The purpose of this Tenancy Strategy is to set out the Council's approach to the use of flexible and other tenure. It is intended to provide guidance to RP's, informing their policies and practices to ensure that they meet housing need across the whole of the Borough of Guildford. In addition, it will indicate to housing applicants what they can expect from a tenancy, flexible or otherwise, with the following aims:

- **To make best use of social housing stock**

*This over-arching objective is that local social housing stock is used to provide homes for those in the greatest housing need who are unable to secure a home for themselves by other means, for as long as they have a need for such housing.*

*It is challenging for overall social housing supply in the Borough to keep pace with demand. As a consequence, there is a clear need to make the best use of all of the available social housing in the borough for those that need it most and enable more people to move on from this tenure than is the case at present.*

- **To meet local housing needs and prevent homelessness**

*The use of flexible tenancies also provides an opportunity to help tackle under-occupation, by giving social housing providers more opportunity to move residents to more appropriate accommodation, if they are in a property that is too large for them. This can then release larger properties for families that need them, including overcrowded households, rather than the properties being under-occupied by someone who may be in a property unsuitable for their needs, or that they may not be able to manage.*

*The Council's Housing Allocation Scheme sets out who is eligible for social housing and this will ensure that those in most housing need should benefit from such homes for as long as they require it.*

- **To enable a range of tenure options in a more balanced housing market**

*Maximising the potential of existing social housing is part of our desire to balance the wider housing market in the Borough more towards household need. This is about getting a better balance between the different housing sectors, so that people can access the homes with a suitable tenure that they need, when they need them, at an affordable cost.*

*People's needs may change over time and different tenure options may be more suitable subject to their circumstances, including accessing home ownership and the private rented sector. Flexible tenancies should encourage people to make flexible choices about their housing options, rather than assuming that limited social rented housing is their only effective choice.*

- **To promote sustainable communities**

*Housing mobility is common in tenures other than social housing, without impact on local communities. Those tenants that need social housing on a long-term basis will be able to remain in their communities, as is the case in other sectors.*

*Providing guidance to RP's about more effective use of their housing stock can also contribute towards building more sustainable communities. Effective social housing management will still be a key factor in achieving wider community outcomes, such as improved health and wellbeing, ensuring homes are most-suited to their occupants' needs, making neighbourhoods safer and improving the sustainability of communities.*

3.2 The Tenancy Strategy also aims to support the Council's wider aspirations and can assist in improving the focus on community needs, established through dialogue and consultation with local stakeholders and communities, and delivered in partnership with other organisations.

3.3 The strategy has been drafted to support the current key strategic objectives of:

**Objective 1 - Delivering more affordable homes: new affordable housing supply and redevelopment and re-use of existing social housing stock**

**Objective 2 - Providing support to help prevent homelessness or house those in emergency need**

**Objective 3 - Supporting residents to live safe, healthy and independent lives to promote good health and wellbeing**

**Objective 4 - Working with our partners to support the delivery of our joint aims and wider community benefits.**

3.4 This Tenancy Strategy meets the core values of the Council in respect of the provision of timely, reliable and targeted public services that are judged by their quality, cost-effectiveness and relevance to the community's needs.

3.5 Measuring the impact of all our activity against the Council's core values is a key principle of the way we work; our inputs and activities as a service support the Council's strategic objectives. In this specific case that means that we work to ensure local people have access to good quality homes that meet their needs at a price they can afford, and the Tenancy Strategy is a key part of ensuring that happens.

3.6 Further impacts that we would anticipate to influence are an improved quality of life for older people, supported by a flexible approach to meeting individual household need, enabling moves to the most suitable tenure and dwelling type through the strategy and improving the mental health of residents, where residents have access to the right accommodation at the right time of their lives.

3.7 This Tenancy Strategy will be supported by specific performance and indicators which are measured and reported in line with the Council's aims.

## **4. Policy status**

- 4.1 This strategy aims to define how the Council's tenure policy relates to its housing stock and will apply to all RP's providing social and affordable rented properties in Guildford Borough. In addition, it also sets out standards expected of all RP's, who have been consulted during its development, as all local RP's must give due regard to the guidelines set out in the strategy, upon completion of the review consultation.
- 4.2 RP's are required by Homes England, acting as their regulatory body, to let their homes in a fair, transparent and efficient way, which takes into account the housing needs and aspirations of tenants and potential tenants whom they serve. RPs are expected to demonstrate how their lettings:
- make the best use of available housing
  - are compatible with the purpose of the housing
  - contribute to the local authority's strategic housing function and sustainable communities.
- 4.3 RP's are also required to publish clear and accessible policies setting out how long tenancies are for, when they will be renewed and the approach to management, including interventions to sustain tenancies and to prevent unnecessary evictions and tackle tenancy fraud.
- 4.4 Most RP's operate across more than one local authority boundary. Therefore, they may need to acknowledge and have regard to a number of tenancy strategies, which will then be tailored to suit a borough or district's particular circumstances.
- 4.5 The Council considers that prospective tenants should have fair access to the available social housing in the Borough and not be confused by various landlords offering different tenancies or terms. Without broad compatibility between the policies of the RP's operating in the same borough or district the choices made by housing applicants could be affected and this may affect our ability to meet their housing need. We therefore expect that RP's engage with and consult with the Council to ensure their policies are in line with the principles of this strategy.
- 4.6 The legal status of the strategy is such that it does not override existing agreements regarding tenure, such as specific Section 106 agreements or nomination agreements. It is also subject to the terms of the Equality Act 2010 and the Human Rights Act 1998, in so far as they protect the rights of tenants and other individuals.



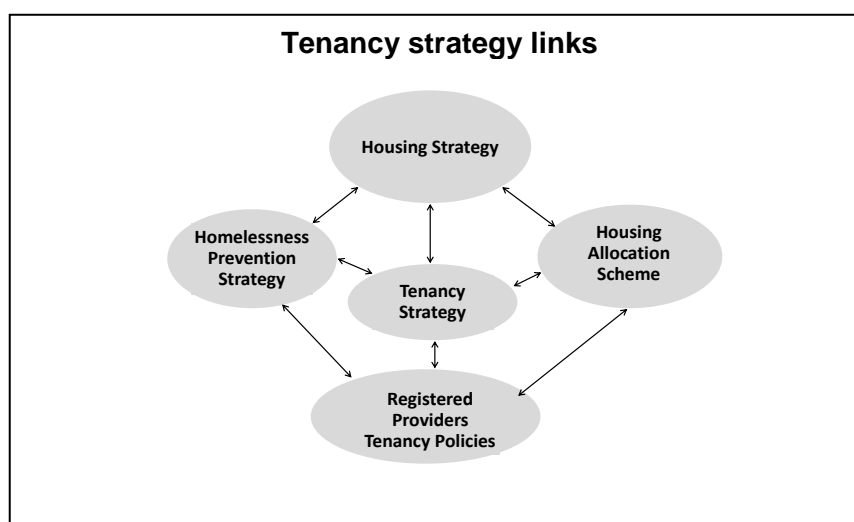
## 5. Strategy context and links

5.1 This strategy has been developed having regard to a number of other key documents, strategies and policies and the current housing and economic environment of the Borough.

### Key issues:

- Borough population expected to increase from 136,000 to 162,188 by 2033
- fewer than 9,000 (15%) social rented homes in the Borough
- high average private rental costs, among the highest in the south east
- a widely affluent Borough with high house prices, with median house price for a two-bedroomed home of around £430,000<sup>1</sup>
- a shortage of land and associated high land values, making the development of new affordable housing challenging
- a significant mismatch between social housing supply and demand with roughly 2,500 households on the housing register, including 500 transfer applications (many of these in overcrowded Council housing), but only 300 vacancies each year (230 from the Council and 70 from RP's)
- pockets of deprivation with lower life expectancy and higher rates of Benefit claimants in some wards
- increasing levels of homelessness.

5.2 The Tenancy Strategy's context and strategic links are illustrated as follows:



5.3 The Localism Act 2011 requires local authorities to have regard to their Housing Allocation Scheme and Homelessness Prevention Strategy in developing their Tenancy Strategy, hence these are considered below.

### The Housing Allocation Scheme

5.4 The Council's Housing Allocation Scheme sets out who qualifies for social housing and how applicants are prioritised. Housing applicants who are deemed to be the most vulnerable and in greatest housing need are currently ranked from band A-E,

<sup>1</sup> December 2019

with band A being the highest priority, and then according to the length of time they have been in the relevant band.

- 5.5 The Allocation Scheme is used to determine who will be offered social housing and offered flexible tenancies, both on initial letting and renewal after each fixed term.
- 5.6 The Council will ensure that the Allocation Scheme supports the delivery of the objectives set out in this Tenancy Strategy. The allocation policy will then be monitored along with the Tenancy Strategy, and changes made in consultation with RP's, applicants and tenants, so that it remains fit-for-purpose over time.
- 5.7 All social rented homes will continue to be let through our choice-based lettings system and advertised on Guildford Homechoice or Homeselecta. Where a property is to be let on a fixed-term, this will be clearly indicated on the property advert.
- 5.8 When making offers of accommodation to prospective tenants, it is essential that they receive full and proper advice about flexible tenancies. This is the responsibility of both the Council and the relevant RP.
- 5.9 New tenants should also be encouraged to think about their housing options at the end of a flexible tenancy, during their tenancy. For example, if they might want to consider low cost home ownership - with such advice being balanced and any necessary assurances made that the tenant will not become homeless at the end of the term.

### **The Homelessness Prevention Strategy (Housing Strategy)**

- 5.10 Homelessness in the Borough has been successfully tackled as a result of having a clear prevention strategy. However, in a dynamic social, economic and political environment, it may increase again. Therefore, there is a need to ensure that use of flexible tenure does not have unintended adverse impacts, for example that it does not lead to greater homelessness, but rather increases housing opportunity and choice for those in need in the longer term.
- 5.11 The relatively new Homelessness Reduction Act (HRA 2017) and the duties it places upon the authority will also continue to be monitored.
- 5.12 The current Homelessness Prevention Strategy is being reviewed as part of the overall Housing Strategy and we expect to publish a revised version during 2020 for consultation.
- 5.13 The overall Housing Strategy contains distinct elements to prevent homelessness and support people, to help them to avoid homelessness in future. Housing options advice and assistance to help with access to accommodation in the private rented sector has been the most successful route for those at risk of becoming homeless. This approach will continue to be a key action for the Council, as also in the context of this Tenancy Strategy, as those tenants that may not qualify for renewed flexible tenancies are likely to need help and advice to find alternative housing. However, it is also an expectation that social landlords will also help provide similar support and advice to their tenants.

5.14 As the Housing Act 1996 Part VII allows the authority to discharge the homelessness prevention and relief duties by using accommodation in the private rented sector, and the Localism Act 2011 provides a similar power to end the main homelessness duty, and given our previous success in finding suitable private rented homes for many housing applicants, the Council will also use this power to help statutorily homeless households.

5.15 This Tenancy Strategy, along with the use of flexible tenancies, supports the Council's overall strategy to prevent homelessness and complements the current housing options advice available to households at risk of homelessness.

5.16 The wider strategic information that has been used to inform this strategy can be found in the following documents:

The West Surrey Strategic Housing Market Assessment  
<http://www.guildford.gov.uk/shma>

Guildford Borough Housing Allocations Scheme  
<https://www.guildfordhomechoice.org.uk/Data/ASPPages/1/8.aspx>

## 6. Tenancy policies

- 6.1 This section sets out guidance to RP's for their own individual tenancy policies. It also outlines the proposed use of flexible and other tenancies and takes account of the objectives set out above, as well as safeguarding the continuing rights of existing secure tenants.
- 6.2 The strategy sets out the Council's policy in respect of letting our own stock.
- 6.3 The following tenancy types are recognised as being of particular value:
- Introductory/Probationary/Starter Tenancies
  - Flexible Tenancies
  - Secure Tenancies (hereafter referred to as lifetime tenancies)
  - Assured Tenancies (hereafter referred to as lifetime tenancies).
- 6.4 The difference between lifetime and flexible tenancies is set out in **Annex 1**.
- 6.5 RPs' landlord tenancy policies should seek to ensure compatibility, as far as possible, with the following issues:
- the purpose of the accommodation
  - the needs of individual households
  - the sustainability of the community
  - the efficient use of social housing stock
  - children in need.

### **Introductory/Probationary/Starter Tenancies**

- 6.6 Introductory, Probationary or Starter tenancies provide an effective housing management tool, to ensure that new tenants understand their obligations under their tenancy agreement and can do so successfully.
- 6.7 The Council uses Introductory Tenancies, as do most RP's operating in the Borough, and such tenancies may continue, as it is recommended that all social landlords in Guildford consider their continued use or introduction.
- 6.8 Where a RP uses Introductory/Probationary/Starter Tenancies, they should normally be entered into for a 12-month period, which may be extended to a maximum of 18 months, where reasons for extending the probationary period have been given and where the tenant has had the opportunity to request a review.
- 6.9 Upon successful completion of the probationary period tenants should graduate to the relevant tenancy as set out within the individual landlord's tenancy policy.

### **Flexible Tenancies**

- 6.10 The Council considers that fixed-term tenancies provide a way of making the best use of limited stock, as well as linking tenancy renewal to existing housing need and ongoing behaviour and responsibilities. Although these tenancies do not offer lifetime security of tenure, in other respects tenants will have similar tenancy rights to lifetime tenants.

- 6.11 It is desirable that all new social tenancies across the Borough are offered on similar fixed terms, rather than there being a range of terms, which may create confusion for those households relying upon the social housing sector to meet their housing need. In addition, it may be difficult to explain to service users the reasons for, and conditions of, a plethora of different tenures and may cause some confusion, as well as generating resource intensive requests for reviews of terms offered.
- 6.12 The Council expects a fixed-term tenancy of five years to be granted to new social housing tenants, after any introductory or probationary period, with very few exceptions. In the authority's view, five-year tenancies give adequate security to most households, as they provide a balance between residents having stability and feeling settled in an area, with the ability to help make tenancies work and be sustainable, as well as making the best use of housing stock retained by the landlord.
- 6.13 All such tenancies will be subject to review towards the end of the fixed term and, subject to the circumstances of the tenant at that time, a decision will be made as to whether to renew the tenancy for a further fixed-term period.
- 6.14 It is essential that RPs clearly communicate renewal terms to new tenants when they are offered fixed-term tenancies, so that they understand that in most circumstances tenancies will be renewed. This will help people, particularly those who are vulnerable, feel connected and settled and contribute to their local areas and to invest in their homes.
- 6.15 Social housing also comes with responsibilities and there should be a link between expected behaviour and tenancy renewal, which needs to be strongly communicated at the start of the tenancy.
- 6.16 Tenancies should be renewed for successive five-year periods where the tenant(s) and their household still meet the criteria to be allocated social rented housing, in accordance with the prevailing Housing Allocation Scheme at the time their tenancy is reviewed. The majority of tenancies are likely to be renewed unless the tenant's circumstances have changed, as detailed later in this strategy.

### **Two-year flexible tenancies**

- 6.17 Although five-year flexible tenancies are recommended as the usual minimum term, two-year tenancies may be offered in certain circumstances. The Council considers that shorter fixed-terms may be desirable in a number of exceptional circumstances, as follows:
- An offer of accommodation in a supported housing scheme designed to help tenants achieve independence - *supported housing is limited in supply, therefore it is important that those who are capable of living independently are encouraged to do so and move on to other accommodation in less than five years; in some circumstances they may be offered other social housing on a five-year tenancy, in accordance with the Housing Allocation Scheme.*
  - Where a short tenancy is being offered for a fixed period and there is no intention to renew – *for example accommodation offered to a young person, as an*

*opportunity to save for a deposit, or as an incentive to engage in training, education or employment*

- An offer of accommodation to someone who has lived with a tenant who has died, but is not entitled to succeed to the tenancy, to provide them with some transitional protection<sup>2</sup> to overcome their bereavement where they are likely to be able to meet their own housing needs in the longer term.

6.18 Shorter tenancies may also be considered in certain circumstances, where an existing five-year tenancy is coming to an end and there is uncertainty about the future needs of the tenant, for example:

- a family where children have been taken into care, where it is not known if those children will return home
- a family where there is a relationship breakdown and there are ongoing negotiations about residence arrangements for the children that could affect the household's future social housing requirements
- a family with adult children at university or living away from home where it is uncertain as to whether or not the adult children will return to live at home permanently.

6.19 In some instances a further shorter tenancy may be more appropriate where a tenant has a history of not keeping to the terms of their tenancy agreement. See paragraph 6.29 below.

6.20 These examples do not necessarily cover all types of exceptional circumstance that might arise and the Council would not seek to fetter the discretion necessarily available to social housing landlords. Further advice will be available to RP's in the use of discretion for shorter tenancies, if required.

### **Succession to a flexible tenancy**

6.21 There is an automatic right for a spouse or partner of a tenant to succeed to a flexible tenancy, but this can only take place once. Any other successions will be entirely at the discretion of the RP and all successions to a flexible tenancy will only be for the remainder of the life of that tenancy, and subject to a full review the end of the period when the tenancy is due.

### **Tenancy Reviews<sup>3</sup>**

6.22 In good time before a flexible tenancy is due to end, it will be subject to a review, during which time RP's should take into account the following factors:

- the purpose of the accommodation and any changes in use since the commencement of tenancy
- the efficient use of housing stock
- the needs of individual households and any subsequent changes to the circumstances since the commencement of tenancy.

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<sup>2</sup> The period of transitional protection would be for two years.

<sup>3</sup> Regulations have been issued setting out the review procedures for flexible tenancies.

6.23 Tenancies should be renewed for successive five-year periods, where the tenant(s) and their household still meet the criteria to be allocated social rented housing, in accordance with the prevailing Housing Allocation Scheme at the time.

6.24 A number of factors should specifically be addressed and set out in RP's tenancy policies (6.25 – 6.30).

### **Income and capital levels**

6.25 If the tenant's household's financial circumstances have changed and they have sufficient resources to meet their own housing needs, their tenancy should not normally be renewed. All income, savings and other assets and capital should be taken into account, as well as the viability of low-cost home ownership and private renting.

### **Under-occupation**

6.26 Where the tenant's home is under-occupied by one bedroom or more they may be offered a further five-year tenancy, but for smaller more suitable accommodation. They will be given additional priority under the Housing Allocation Scheme to enable them to find alternative smaller accommodation.

### **Properties with adaptations**

6.27 If the property has been extensively adapted for someone with a disability who no longer lives with the tenant, and this would allow the property to be released for someone who will benefit from the adaptations, they may be offered a further five-year tenancy for more suitable accommodation.

6.28 Where there is a disabled adult living with his or her parents or other related carer and they have applied to move to their own independent accommodation, if the property has been adapted to suit their needs, and is likely to continue do so in the long-term, consideration may be given to offering the property to the disabled person. In such cases the parent(s) may be offered a further tenancy of another suitable property, receiving priority under the Housing Allocation Scheme. This will ensure the most effective use of adapted homes and reduce the need to adapt another property.

### **Tenancy record and behaviour**

6.29 The tenancy policy should not seek to address housing management issues that can be dealt with through existing processes. The Council and other RP's may consider whether to renew tenancies where there has been a serious and persistent breach of the tenancy agreement, such as anti-social behaviour, criminality and persistent non-payment of rent, and failure to engage with their landlord to address this behaviour. This will help to send clear messages on acceptable behaviour and result in a closer relationship between the landlord and tenant. In such cases vulnerability issues need to be fully taken into account. In certain cases a two-year fixed-term tenancy may be offered along with support to enable the tenant/s to demonstrate they can sustain their tenancy. This might be particularly appropriate for tenants involved, or agreeing to participate, in family intervention projects.

## Other factors

6.30 The Council recognises that there may be circumstances in which it would be unreasonable to expect someone to move, even if the above criteria applied, and will expect RP's to exercise their discretion to offer a further five-year or two-year fixed-term on health and welfare grounds, for example if the tenant, or a member of their household, is suffering from a life-limiting illness.

## Giving notice to end a tenancy

6.31 Once the tenancy review is completed, if it is decided that the tenancy will not be renewed, the Council or RP must serve a written notice advising the tenant of their decision. The notice will contain the reasons for the decision and formally notify the tenant of their right to appeal and the appeal process. It is a legal requirement for the notice to be issued at least six months before the expiry of the tenancy.

6.32 If the tenant refuses to move when the notice period expires, the normal eviction procedure will take effect.

6.32 RP's are asked to notify the Council about tenancies that will not be renewed, subject to the consent of the tenant, as this will help any offer of further assistance if necessary.

## Appeals

6.33 Tenants and prospective tenants may appeal against the length of the fixed-term tenancy offered, and the type of tenancy offered, and also against a decision not to grant another tenancy on the expiry of the fixed term.

6.34 The Council expects RP's to set out the way in which a tenant or prospective tenant can appeal, with policies that:

- set out to whom appeals or reviews should be made (this is expected to be a more senior officer who was not involved in the original decision)
- how appeals can be made
- give timescales for dealing with appeals or reviews
- set out how the tenant can take their appeal or review further, if they are dissatisfied with the response, for example to a tenant panel or the Housing Ombudsman and where they may get independent advice
- be accessible and easily available, i.e. published on websites/available in local offices.

6.35 All applicants have the right to request general information about their tenancy review, including the facts that have been taken into account and the reasons cited for termination.

6.36 Should a tenant appeal and fail to have the decision overturned, the landlord will be able to seek possession of the property. The landlord's right of possession may then be challenged in the County Court only on the grounds that the landlord has made a **legal error** or a **material error of fact**.



## **Housing Advice at the end of a fixed-term**

- 6.37 Where a fixed-term tenancy is not renewed each RP must ensure appropriate housing advice is provided. All reasonable steps to prevent homelessness should be taken.
- 6.38 How this advice will be provided should be set out clearly in their individual RP tenancy policy. We expect RP's to discuss the most effective means of delivering this advice with us. Tenants who will not be having their fixed-term tenancies renewed should not only be directed to the Council's housing options service for this advice.
- 6.39 RP's should be pro-active in offering advice to their tenants and start well in advance of the review period. They should follow best practice and consider if they could offer tenants support, such as encouraging saving for deposits, promoting low-cost home ownership options and helping tenants that are under-occupying move to smaller homes.

## **Lifetime Tenancies**

- 6.40 Lifetime tenancies must be retained for those tenants who held them on the day that section 132 of the Localism Act 2011 came into force<sup>4</sup>.
- 6.41 The Localism Act requires RP's to offer Secure or Assured tenancies to applicants that were already social tenants before the provisions were enacted, and this applies to mutual exchanges, reciprocal moves or moves as a result of major works or regeneration.
- 6.42 The Council expects that existing Secure and Assured tenants will retain their security of tenure when they choose to move to another social rented home.
- 6.43 In transfers between tenants with different levels of security, Secure or Assured tenants keep their security of tenure, if they swap with a Flexible tenant or an Affordable rent tenant. However, it is not guaranteed they will keep the same rent or other tenancy conditions.
- 6.45 The Council does not intend to offer secure tenancies to any new tenants, other than those over 60 offered sheltered and extra-care sheltered housing, except in very exceptional circumstances.
- 6.46 RP's are, therefore, asked to adopt the same approach in their policies. Where a RP wishes to offer lifetime tenancies for those moving to sheltered housing they may choose to do so if they consider this offers the best use of this provision.

## **Other tenancies and licences**

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<sup>4</sup> This is only relevant if any RPs have offered flexible tenancies in advance of the tenancy strategy being implemented as they are permitted to do so since the Localism Act was implemented. Security of tenure will continue for all Council tenants housed before this strategy is implemented.

6.47 There are various other types of tenancies and licences that may be used by the Council and RP's in appropriate circumstances. The Council supports the continued use of such tenancies, as set out here, below:

- **Non-Secure Tenancies/ licences** are used for households provided with accommodation under the Council's statutory homelessness duties. They do not offer security of tenure. They last until the Council has discharged its duty to provide temporary accommodation and may be used by the Council or by RP's, if they provide temporary accommodation for this purpose at the request of the Council.
- **Assured Shorthold Tenancies (AST's)** are generally used for private sector rented homes but RP's may also use them in some circumstances. They are frequently used in supported housing schemes or in general needs accommodation which is intended for short-term use, for example to help prevent immediate homelessness or where properties are leased for a fixed period and the landlord needs to be able to offer up vacant possession at the end of the term. They can also be used for short-life properties.
- **Family intervention tenancies** may be used in limited circumstances, usually linked to specific support being provided to tenants.
- **Demoted tenancies** may be used as an alternative to possession in cases of serious breach of tenancy conditions. A Flexible Tenancy can arise where a demoted tenancy, which had originally replaced a Flexible Tenancy, comes to an end, and the landlord had served a written notice that the tenancy would revert to a Flexible Tenancy.

## 7. Affordable Rents

- 7.1 Affordable Rented (AR) housing is a model of social housing that can be let at up to 80 per cent of local market rents. This is in contrast to social rented housing, which has to be let at 'target rents' which are set by the Government and are usually between 40 % and 50 % of market rents. Any increase in rent is to be used to fund new social housing development.
- 7.2 AR housing is not directly linked to tenancy – it can be offered as a lifetime tenancy or a flexible tenancy. It is important that tenants and prospective tenants understand the difference between AR and social rents. The Council expects RP's to set out their intentions to use ARs in their individual tenancy policies, which may relate household income to eligibility for AR housing.
- 7.3 The National Planning Policy Framework (NPPF) defines AR housing as: "rented housing let by registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent (including service charges, where applicable)."
- 7.4 All RP's that have entered into development contracts with Homes England and receive grants are required to charge Affordable Rents. It also recommends that when setting rents, RP's take into account the local market context (including the relevant Local Housing Allowance) and wider Benefits' policy.
- 7.5 Private rents are extremely high in the Borough and we wish to ensure that AR housing is genuinely affordable to housing applicants. Therefore, the authority considers that the levels of Local Housing Allowance (LHA) payable through Universal Credit or Housing Benefit on private rented housing in the Borough, should be should taken into account in setting any guidelines regarding levels of rent for this newer type of social housing.
- 7.6 The Borough is divided into two areas for LHA purposes; the Blackwater Valley (Ash/Tongham) area and the Guildford area. Research into market rents in the Borough indicates that at 80 per cent of market rates, rents would fall within limits in most parts of the Blackwater Valley area; however in the Guildford area rents at 80 per cent would exceed LHA. The Council expects housing providers to offer rents that fall within LHA limits. In most parts of Guildford LHA limits are at around 70 per cent of market rents.
- 7.7 Providers with Homes England contracts are also able to introduce AR on a proportion of their relets, otherwise known as 'conversions'. Some properties are subject to Section 106 agreements, leases, covenants, or nomination agreements, so this may not be possible in all cases. The Council is, therefore, unable to give a blanket agreement to conversions from social rent and conversions will be considered on a case-by-case basis.

- 7.8 The Council accepts that the AR model will help secure new housing supply. However, we expect developers and RP's to follow the guidance laid in the Supplementary Planning Document on S.106 sites. This indicates that we expect Affordable rents across the borough to be at a maximum of 70 per cent of a market rent, or LHA rate, whichever is the lowest.
- 7.9 Although this guidance is for S.106 sites the Council expects RP's developing any site, or converting their rents, to abide by the principles set out in this guidance.
- 7.10 Given the importance of homes being affordable for tenants, the Council considers it essential that RP's develop approaches to financial inclusion and capability for tenants, ensuring that prospective tenants will be allocated a home they are able to afford in the longer term and financial issues will be addressed at an early stage. Likewise, tenants likely to be affected by welfare reform changes should be given appropriate advice and information.

## **8. Strategy review & monitoring**

- 8.1 The Council's Tenancy Strategy has been developed and reviewed through consultation with housing providers, relevant local organisations, bodies and partner agencies. The views of existing and prospective tenants were also taken into account, with access available via the Council's website.
- 8.2 This strategy may be updated from time-to-time to ensure that any information and links remain relevant and will be further reviewed as circumstances require at regular intervals and not less than every five years. Any major revision to the strategy will be considered in consultation with all relevant parties, who will be given a reasonable timescale to respond and comment as appropriate.
- 8.3 It is proposed that the success of the Tenancy Strategy will be monitored indirectly through reference to existing indicators for the number of flexible tenancy reviews carried out by Landlord Services, the number of mutual exchanges by social housing tenants in Guildford and Performance Indicators for tenant satisfaction.

## **9. Equalities and diversity**

- 9.1 The finalised Tenancy Strategy will be subject to an Equality Impact Assessment screening and the Council expects RP's to carry out their own Equality Impact Assessment for their individual tenancy policies, as supported by the appropriate performance indicator monitoring for this strategy (referenced above at 8.3).

## Annex 1 - Comparisons between lifetime and flexible tenancies

The following table shows, for ease of reference, the differences between a lifetime (secure or assured) tenancy and a fixed term flexible tenancy.

	Lifetime tenancy	Flexible
Term	For the life of the tenant	Normally five years but cannot be less than two years.
Right to exchange	Secure and Assured tenants have a statutory right to exchange their tenancy with another Secure or Assured tenant, which can only be refused by the landlord on certain grounds, such as being under notice of seeking possession. They can be agreed subject to conditions such as clearing any rent arrears.	Same rights as lifetime tenants.
Right to take in lodgers and to sublet part of the property.	Secure and Assured tenants have the right to take in a lodger or sublet part of their property however, if the tenant parts with possession or sublets the whole of it the tenancy ceases to be a secure tenancy. Tenants do not need the landlord's permission to take in a lodger. Subletting part of the property requires permission from the landlord but this cannot be unreasonably withheld. Failure to obtain consent would be a breach of tenancy.	Same rights as lifetime tenants.
Right to Repair	Secure and Assured tenants have certain rights to ensure that their landlord deals with repairs within a reasonable timescale, with a right to compensation in some circumstances.	Same rights as lifetime tenants.
Rights to consultation / information	Secure and Assured tenants have the right to be consulted about matters affecting their rights and tenancy conditions, and information about their tenancy	Same rights as lifetime tenants.
Right to Buy	Secure tenants are entitled to buy their home after they have been a social housing tenant for five years. Assured Tenants of RP's do not necessarily have the Right to Buy. Some Assured tenants of RP's may have the Right to Acquire, which is similar.	Legislation extends the Right to Buy to Flexible tenancies on the same basis as Secure tenants.
Succession	There can be one succession of tenancy to a spouse or close relative if they lived with the tenant for at least a year before their death. This includes cohabiting partners, children, parents,	There will be a statutory right for one succession to a spouse or partner for the duration of the term of the tenancy.

	<b>Lifetime tenancy</b>	<b>Flexible</b>
	<p>siblings and most other close relatives, but not foster children.</p> <p>The Localism Act has restricted the statutory succession to spouse or partner for all new Secure or Assured tenants with effect from 1 April 2012. Landlords will be able to use discretion to grant a tenancy to other people living with the tenant if they wish to.</p>	
Rents	<p>The rent relates to the property, not the tenancy but there are controls in place for Secure and Assured tenants.</p> <p>Council rents will continue to be controlled through Benefit subsidy limits.</p> <p>RP social rents will continue to be controlled through the national rent regime.</p> <p>The Affordable Rent model can be up to 80 per cent of a market rent (expected to be at 70 per cent in the Guildford Borough area). RP's and some councils may charge higher rents for properties on new developments and some RP's have agreements with Homes England to convert vacant properties to Affordable Rent.</p> <p>The extra income from rents is to be used to help fund new housing development.</p>	<p>Flexible tenants may be offered properties on either Affordable Rents or social rents. The determinant is the property, not the type of tenancy.</p>
Moves	<p>Where an existing social tenant moves to another social rented property, they will be granted a Secure or Assured tenancy.</p>	<p>The type of tenure offered where a flexible tenant is re-housed by the Council will be the same, although the term may be shorter at our discretion. RP's will base this on their tenancy policy, which should take into account the guidance in this strategy.</p>



## Annex 2

### Glossary

Affordable Rent	Affordable Rented (AR) housing is social housing that can be let at up to 80 per cent of local market rents. This is in contrast to social rented housing, which has to be let at 'target rents' which are set by the Government and usually between 40 % and 50 % of market rents. The increase in rent is to be used to fund new social housing development.
Assured Shorthold Tenancy	The most common form of tenancy in the private sector. Assured Shorthold Tenancies give the tenant the right to occupy a property for a fixed period of time, provided that they keep to the terms of their tenancy agreement. At the end of the fixed period of time (often 12 months), the landlord or the tenant has the right to terminate the tenancy.
Assured Tenancy	Another form of private sector tenancy, commonly used by RP's. Assured Tenancies give the tenant the right to remain in the property unless the landlord can prove to a court that they have grounds for possession. The landlord does not have an automatic right to repossess the property when the tenancy comes to an end. Until recently, RP's usually granted 'lifetime' Assured tenancies.
CA	Citizens' Advice
CBL	Choice Based Lettings (the system of allocating housing, in which properties are advertised each week and applicants can register an interest in their preferred properties. See also Guildford Homechoice and Homeselecta
Demoted Tenancy	Landlords can apply for a court order to demote a tenancy to a starter/introductory tenancy. This has the effect of putting the tenant on probation and if further breaches of the tenancy occur the landlord can obtain a court order to end their tenancy.
Extra Care housing	Extra Care housing developments are designed for the needs of frail elderly people. They are sometimes known as 'very sheltered' or assisted living schemes. Most properties in these schemes are suitable for less mobile people and wheelchair users, with bathrooms designed to make it easier for assistance to be offered. Usually schemes have their own care staff and, if required, provide one or more meals daily. Extra Care housing has developed from sheltered housing, and they share many of the same features. A typical Extra Care scheme has a mix of residents who require different levels of care.
Family Intervention Tenancy	Tenancies granted to families who have been involved in antisocial behaviour. The tenants are put on probation and given behavioural support services as a condition of living in the accommodation.
Flexible Tenancy	A flexible tenancy is a tenancy that is for a fixed period of more than two years.
Guildford Homechoice	The Council's method of allocating council and partner RP properties. Properties are advertised each week on the Homechoice website and are allocated to applicants who express an interest in order of their priority on the

	housing register.
Homes England	A national housing agency launched in 2017, replacing the Homes and Communities Agency. Remit is to facilitate delivery of new homes where most needed, with a sustained improvement in affordability.
HomeSelecta	A choice based lettings scheme operating across Hart, Rushmoor, Guildford and Waverley. Each local authority opens up a proportion of vacancies to applicants from the neighbouring authorities in order to give applicants more choice and greater mobility.
Homes 4 U	A service provided by the Council to assist applicants to access private rented housing. It may assist with the provision of rent deposit bonds or cash deposits and in certain cases a loan to cover rent in advance, subject to the rules of the service.
HRA	Housing Revenue Account.
Introductory Tenancy	<p>A public sector residential tenancy granted for a 12-month trial period, which can be extended by 6 months, after which the tenant may become a Secure tenant, provided the landlord has not brought possession proceedings during the trial period.</p> <p>The tenancy may become a Flexible tenancy at the end of the Introductory tenancy period, provided a written notice was served on the tenant before the start of the Introductory Tenancy advising on ceasing to be an Introductory Tenancy, the tenancy would become a Secure tenancy that would be a flexible tenancy for a term certain and specifying the length of the term.</p>
Licence	A personal permission to use a property for a period of time in accordance with the terms of the licence. A licensee does not have exclusive possession of the property.
Lifetime Tenancy	A tenancy that can only be ended via a court order, i.e. if the terms of the tenancy are breached. Tenants who currently have a lifetime tenancy will not be affected by the changes.
MHCLG	The Ministry of Housing, Communities and Local Government. Previously CLG or DCLG.
Mutual Exchange	When two (or more) Secure or Assured tenants swap tenancies (and homes) with each other (normally by assignment).
National rent regime	The regime under which central government sets the guideline rents for social rented properties.
Non-secure tenancy	Non-Secure tenancies are provided under the Council's duties to provide temporary accommodation for homeless persons. In order to terminate and gain possession of a property the Council must service a Notice to Quit but is not required to prove any statutory ground
Reciprocal move	An agreement between local authorities whereby someone currently living in one local authority area maybe rehoused in another local authority area. For example, if someone has to be rehoused out of the area in order to escape

	domestic abuse.
Registered Provider (RP)	<p>All providers of social housing, including the Council, are now known as 'Registered Providers' or RP's.</p> <p>Housing Associations were formerly known as Registered Social Landlords (RSL's).</p> <p>There are two types:</p> <ul style="list-style-type: none"> <li>• Non-profit RP's</li> <li>• Profit-making RP's</li> </ul> <p>Most former RSL's are now non-profit RP's. Some former RSLs (for example A2 Dominion) have both a non-profit and a profit-making arm in their structure, so that they can use the most appropriate arm depending on the situation.</p>
RSL	Registered Social Landlord (see Housing Association) - now known as a Registered Provider.
Probationary Tenancy	See Introductory Tenancy. Normally used by RP's.
Secure Tenancy	The vast majority of local authority tenants and housing association tenants whose tenancies began before 15 January 1989, are secure tenants and have a range of additional rights covered in the Housing Act 1985.
Sheltered housing	Special housing for elderly or vulnerable people who may need additional support to maintain independent living. A warden may be on site some of the time.
Social rented housing	Social rented housing is rented housing owned and managed by local authorities and other registered providers of social housing, for which guideline target rents are determined through the national rent regime.
Starter Tenancy	See Introductory Tenancy. Normally used by RP's.