

**WOKING BOROUGH COUNCIL
TENANCY POLICY
(FOR THE COUNCIL'S OWN HOUSING STOCK)**

19 June 2013

Woking Borough Council Tenancy Policy

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1.0 Introduction

- 1.1 It is a regulatory requirement that Registered Providers of Social Housing in England must publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions and tackling tenancy fraud, and set out:
 - i. the type of tenancies they will grant
 - ii. where they grant tenancies for a fixed term, the length of those terms
 - iii. the circumstances in which they will grant tenancies of a particular type
 - iv. any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period
 - v. the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, of the same property or a different property
 - vi. the way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term
 - vii. their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability
 - viii. the advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy
 - ix. their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.
- 1.2 This Tenancy Policy applies to Woking Borough Council's own stock and has been written with reference to the Council's Tenancy Strategy which has been developed to guide all providers of social housing in Woking in setting policies for their own stock. The Tenancy Policy follows the principles and objectives of the Tenancy Strategy and should be read in conjunction with it. The Council's Tenancy Strategy covers a four year period 2013 – 2017 and it is the Council's intention to review both the Strategy and this Policy within that time frame.
- 1.3 It will be used to ensure that the right type of tenancy is allocated to each tenant, that the under occupation of properties is addressed effectively and that we can provide family and/or adapted housing where this is required.
- 1.4 It also sets out the circumstances in which we will charge Affordable Rents.
- 1.5 The ways in which each type of tenancy can be let and brought to an end are set out in law (Housing Acts 1985 and 1996, and The Localism Act 2012).
- 1.6 The Council expects all Registered Providers of social housing in Woking to publish their policies on their websites and make copies available free of charge to anyone who might request a copy.

2.0 Affordability and Affordable Rent

2.1 Affordable Housing now includes Social Rented, Affordable Rented and Intermediate Rented housing which is provided for eligible households whose needs cannot be met by the housing market. It is determined by local incomes and local house prices.

Affordable Housing should :

- i. Meet the needs of eligible households and should be available at a cost low enough for these households to afford
 - ii. Include provision for the home to remain at an affordable cost for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.
- 2.2 Social Rented Housing is rented housing owned and managed by Local Authorities and Registered Providers (previously known as Housing Associations) of Social Housing, for which guideline target rents are determined through the national rent regime. It is the level of rent that Woking Borough Council charges for the majority of its properties (excluding those charged at Affordable Rent) and is set at approximately 40% of Market Rents.
- 2.3 Affordable Rented Housing is rented housing provided by Registered Providers of Social Housing that has the same characteristics as Social Rented Housing except that it is outside the national rent regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rent and rent levels are higher than those of Social Housing. Woking Borough Council has taken the view that Affordable Rent will only be considered for any Council new build schemes and acquisitions. It will not be charged on re-lets of existing stock (stock built before April 2012). WBC will charge Affordable Rent at levels no higher than the relevant Local Housing Allowance at the time.
- 2.4 Some Registered Providers of housing have indicated that they will be charging Affordable Rents on any existing properties which are re-let or any new properties in order to help fund development.
- 2.5 Affordable Rents for properties with 3 or more bedrooms should not be higher than 60% of market rent and Affordable Rent should not be set on Sheltered Accommodation.
- 2.6 All Affordable Rent properties will be advertised through the Council's Choice Based Lettings Scheme (Hometrak) and will clearly be identified as being let at an Affordable Rent.
- 2.7 Intermediate Affordable Housing is housing provided at prices and rents above those of Social Rent, but below market prices or rents. This can include Shared Equity products, other Low Cost Home Ownership Schemes and Intermediate Rent, but does not include Affordable Rented Housing.

3.0 Tenancy Types and Conditions

- 3.1 **Introductory Tenancy** – Generally given to all new tenants of Woking Borough Council. These tenancies usually last for 12 months from the tenancy start date but in certain circumstances an Introductory Tenancy can be extended. During the 12 months Introductory Tenants have fewer rights than Secure Tenants and can be evicted more easily.
- 3.2 Tenants transferring from another social landlord will not be given an introductory tenancy (unless they are already subject to an introductory tenancy from their previous landlord) and will be offered either a Secure or Flexible Tenancy. This does not apply to tenants given Temporary Accommodation who will be given a Non-Secure Tenancy.
- 3.3 Before the start of an Introductory Tenancy, tenants will be told which kind of tenancy (Secure or Flexible) they will be granted at the end of the introductory period.
- 3.4 After the introductory period the tenancy automatically becomes either a Secure Tenancy or a Flexible Tenancy, unless we have begun proceedings to end the tenancy (served Notice) due to a breach of the Tenancy Agreement.
- 3.5 Breaches of the Tenancy Agreement, and reasons why an Introductory Tenancy may be extended for a period, include:
 - i. Rent arrears
 - ii. Anti-social Behaviour
 - iii. Damage to the property
 - iv. Noise nuisance
 - v. Failure to maintain garden
- 3.6 Introductory tenants have most of the same rights as Secure or Flexible tenants but there are some rights that they do not have. They do not have the right to:
 - i. Take in lodgers
 - ii. Sub-let part of the home
 - iii. Make any improvements to the property
 - iv. Be compensated for any improvements to the property
 - v. Exchange their home with another tenant
- 3.7 Introductory tenants do not have the Right to Buy their property, but the period spent as an introductory tenant will count towards the qualifying period for the Right to Buy.
- 3.8 In some limited circumstances Introductory Tenancies will not be issued where:
 - i. A Flexible Tenancy was issued on a non-renewable basis
 - ii. The tenant is already a Secure (Council tenant) or Assured Tenant (tenant of a Registered Provider)

3.9 **Secure Tenancy** - Most of our tenants have a Secure Tenancy. To end this type of tenancy we must get a Possession Order from the Court.

3.10 The reasons why we may seek to obtain a Possession Order would include:

- i. The tenant refusing to pay rent or accruing large rent arrears
- ii. Misuse of the property by either the tenant, a member of their family or visitors
- iii. The tenant not living in the property as their principal home.

3.11 Under the Housing Act 1985 secure tenants have a number of rights which include:

- i. The right of succession
- ii. The right of assignment in certain cases
- iii. The right to take in lodgers and sublet part of the property
- iv. The right to request a transfer to alternative accommodation
- v. The right to exchange their home with another Council or Housing Association tenant
- vi. The right to information
- vii. The right to be consulted and involved
- viii. The right to make improvements to their home
- ix. The right to compensation for improvements
- x. The right to repair
- xi. The Right to Buy in certain cases

3.12 Tenants moving into Sheltered accommodation will be granted Secure Tenancies as it is felt that their circumstances are less likely to change over time. Sheltered accommodation is accommodation which has been designated by the Council as such and which we deem to be suitable for people over 60 years of age or with a disability.

3.13 Any existing Secure or Assured tenant where they choose to move to another Social Rented home, whether with the same or another landlord, or because they need to move due to redevelopment works will be granted a Secure Tenancy (this does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

3.14 **Flexible Tenancy** – Introduced through the Localism Act, a Flexible Tenancy is one that is offered for a specific period of time, as opposed to the traditional Secure Tenancy which is normally referred to as a “lifetime tenancy”. The period of time is known as the “fixed term”.

3.15 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 Flexible Tenancy, the Court has to award the landlord possession as long as the fixed term has expired, the correct notices have been served and any appeal has been considered.

- 3.16 Once this policy has been approved, tenants will normally be granted a Flexible Tenancy rather than a Secure Tenancy, after the Introductory Tenancy has ended.
- 3.17 In most circumstances tenants going into general needs properties will be given Flexible Tenancies as it is felt possible that their circumstances (family make up, financial standing or need for adapted accommodation) may change during the course of the Flexible Tenancy, and so change their housing needs.
- 3.18 There may be some circumstances where it is judged that, due to their individual circumstances, a tenant moving into a general needs property should be granted a Secure Tenancy. These circumstances may include learning disability, chronic physical disability, severe sight impairment and those with a severe and enduring mental illness. The Council's Tenancy Strategy sets out the criteria for which tenants will be granted a Secure Tenancy as follows:
- i. Applicants with a lifelong need for support (this would apply to tenants in specialist/supported accommodation, as well as older persons' accommodation such as Sheltered or Extra Care.
 - ii. Applicants with a spouse or child with a lifelong need for support
 - iii. Applicants of retirement age moving into a one bedroom general needs property
 - iv. Applicants being housed under Witness Protection or on Safeguarding grounds
 - v. Secure tenants whose tenancy began before 1 April 2012 and who are moving to another Council property
- 3.19 The length of the Flexible Tenancy will be for seven years in almost all cases but the tenancy will be reviewed towards the end of the fixed term. The first seven year period will commence at the end of the Introductory Tenancy. These tenancies provide a reasonable degree of security, for example for vulnerable people and for people with children, whilst enabling the Council to make best use of its housing stock for those in housing need. However, there will be households who need the greater security of a Secure or "Lifetime" Tenancy (as in 3.18).
- 3.20 In exceptional circumstances we will consider offering a Flexible Tenancy on less than seven, but more than two, years. The decision to do so will be made on a case by case basis by the Housing Panel. The Housing Panel will include the relevant Housing Manager and the Allocations Team Leader.

Examples of such types of circumstances are:

- i. Where the tenant has not kept to an agreement to correct a breach of the Tenancy Agreement during a previous Flexible Tenancy. This will be addressed at the Review meeting, and a new Flexible Tenancy of two, rather than seven years may be offered, where the Council considers a breach of the Agreement warrants a term of less than seven years being granted. The use of shorter tenancies in these circumstances is intended to help reinforce the tenant's responsibilities under the Tenancy Agreement and to enable any necessary support to be put in place. Examples of where a shorter tenancy may be offered include where:

- ii. The tenant has not kept to a rent arrears agreement, or has been making irregular payments
 - iii. The tenant has received warnings about a breach of the Tenancy Agreement and there is evidence that the breach is continuing e.g. untidy gardens
 - iv. During the fixed term the tenancy was demoted (and subsequently reinstated)
 - v. There is a combination of these other breaches
- 3.21 The length and terms of the Flexible Tenancy will be explained to all tenants concerned before they take on the Introductory Tenancy. Tenants need to be clear and understand the terms under which a property is offered and the Review process.
- 3.22 The review period of all Flexible Tenancies will begin at least twelve months prior to the end of the fixed term. We will write to tenants to tell them the outcome of the Review. Where the tenant(s)' circumstances have not changed significantly over the course of the fixed term and they have complied with the terms of the existing Tenancy Agreement we will renew the Flexible Tenancy for a further fixed term. The process should provide reassurance that as long as the terms of the tenancy have been kept to, appropriate assistance will be offered, whether it is to renew the existing tenancy, to offer an alternative tenancy or to explore other housing options such as home ownership. This will help people feel settled in their homes and able to contribute to the community. It will also help people to understand the reasons why, in certain cases, a new Flexible Tenancy may not be offered.

3.23 A Flexible Tenancy will be renewed unless:

- i. The tenant no longer needs the size of property they currently occupy
- ii. The property has become overcrowded
- iii. The income of the household has risen to above the income limit as decided by Woking Borough Council as set by the Housing Allocations Scheme policy
- iv. The property has major adaptations which are no longer needed by the current tenant or a member of the household
- v. The rent account is in arrears at the time of the Review or has been in arrears for at least six out of the last twelve months. Exceptions can be made for tenants in receipt of Housing Benefit/Universal Credit where the payments are in arrears (as defined by HB/UC regulations) or because there has been a change in circumstances, those who we consider to have only minor rent arrears (less than £200), or those who have made an agreement to pay by instalments and have kept to this agreement since it was entered into and for a minimum of six months. If the agreement was entered into but not adhered to initially, a minimum of twelve monthly, consecutive payments must be made.
- vi. There has been a breach of tenancy conditions and a Notice of Seeking Possession has been served.

- vii. The Council intends to demolish, redevelop or dispose of the property within the next five years. In these situations we will consider offering a short term tenancy of the property or suitable alternative accommodation.
- 3.24 When considering whether to renew a Flexible Tenancy we will take into account:
- i. Circumstances where there is a clear need for the household to remain in the same location and other suitable accommodation is not available locally.
 - ii. Circumstances where the property has had to be adapted to meet the needs of a particular tenant or member of their household and this work would have to be duplicated in a new property.
- 3.25 In cases where the Flexible Tenancy is **not** going to be renewed, at least six months notice will be given that the fixed term is coming to an end and a formal Notice of Seeking Possession will be served at least two months prior to the end of the tenancy. We will make it clear that another tenancy will not be granted and the reason for that decision.
- 3.26 To end a Flexible Tenancy we must apply to the Court to obtain a Possession Order.
- 3.27 Tenants on a Flexible Tenancy have the Right to Buy their property (after a qualifying period).
- 3.28 Tenants on a Flexible Tenancy have the right to make improvements to the property if they have obtained written permission from the Council, and to be compensated for any improvements if deemed appropriate by the Council. The Council reserves the right to seek compensation from the tenant where permission has not been granted.
- 3.29 A Flexible Tenancy is subject to the same grounds for possession and succession as a Secure Tenancy. However, with a Flexible Tenancy the Court has to award the landlord possession as long as the fixed term has expired, the correct notices have been served and any appeal has been considered.
- 3.30 **Non-Renewable Flexible Tenancy** - In certain limited circumstances, where the supply of housing stock allows, the Council may offer Non-Renewable Flexible Tenancies. These are intended to provide short-term accommodation to people without priority for housing under the Council's Housing Allocations Scheme. In these cases, the tenancy is offered to address a particular issue or need, and not to provide long-term housing. For example, these may be offered in the following circumstances:
- i. Where they may help people save for a deposit for other housing by virtue of being in low cost housing for a fixed period
 - ii. Where they are intended to provide some transitional housing following a bereavement for close family members who have no right of succession
 - iii. Where there is a short-term accommodation project with support for employment, education, training and moving-on. Young people eligible for such schemes may not have priority for housing under the Council's Housing Allocations Scheme.

- 3.31 The reasons for offering Non-Renewable Flexible Tenancies and the length of the tenancies will change over time. Further circumstances when they may be granted may be agreed by the Housing Task Group.
- 3.32 **Demoted Tenancy** – A Demoted Tenancy is a one-year probationary Council tenancy. Councils use Demoted Tenancies to take action against tenants who have been involved in Anti Social Behaviour. Demoted tenants can be evicted much more easily than secure council tenants. Demoted tenancies are very similar to Introductory Tenancies. They give you more limited rights and less protection from eviction than a Secure Tenancy. The Council can evict you very easily if the problems that led to the demotion of your tenancy continue.
- 3.33 The Council has to follow the correct procedure and get a Court Order if we want to downgrade your tenancy in this way. We normally have to start by giving you:
- i. a written demotion notice
 - ii. reasons why we are applying for a demotion order, and
 - iii. information on when Court action will begin (we should normally give you at least four weeks' notice).
- 3.34 Once it goes to Court, the Judge will only agree to demote your tenancy if you (or someone who lives with you or visits you regularly) have:
- i. Behaved Anti Socially or caused nuisance in the area, or
 - ii. threatened to do so, or
 - iii. used your home for illegal activities such as drug dealing.
- 3.35 The Council should then give you a written Tenancy Agreement explaining the rights and responsibilities you will have while your tenancy is demoted.
- 3.36 Where a Secure Tenancy is demoted and the demotion period is completed successfully, the Demoted Tenancy will automatically become a Secure Tenancy.
- 3.37 Where a Flexible Tenancy is demoted and the demotion period completed successfully, the Demoted Tenancy will also automatically become a Secure Tenancy. If a Flexible Tenancy is required, we must serve a notice on the tenant prior to the end of the demotion period, informing them that the tenancy is to be a Flexible Tenancy and specifying the length of the fixed term and other express terms of the tenancy. The length of the fixed term after the demotion period has ended will be determined on a case by case basis by the Housing Panel.
- 3.38 Demoted tenants do not have the same rights as Secure tenants. For example they do not have:
- i. The right to exchange
 - ii. The right to succession
 - iii. The right to take in lodgers
 - iv. The right to sub-let

- 3.39 The Right to Buy is suspended until the tenancy is no longer demoted. The time spent as a demoted tenant does not count towards any discount.
- 3.40 **Non-Secure Tenancy** – These tenancies are given to tenants living in Temporary Accommodation and Private Sector Leased accommodation.
- 3.41 These tenancies do not have the same security of tenure or rights as Secure tenants, but are similar to Introductory Tenancies.

4.0 Tenancy Agreements

- 4.1 Our Tenancy Agreements will be written in plain English, in a style easily understood by tenants. They will set out the rights and obligations of both the tenant and the landlord.
- 4.2 Tenants will be given a copy of the Tenancy Agreement at the start of the tenancy and will have the terms explained to them at the Sign-Up meeting.

5.0 Sustaining our Tenancies

- 5.1 New tenancies are granted to a range of people including homeless applicants, existing tenants who are overcrowded and people with health issues.
- 5.2 Tenancies are managed by Housing Managers who are currently based in the Civic Offices. Tenancy Management spans a range of topics. Housing Managers are a tenant's main point of contact and a named contact helps to build relationships with residents and communities.
- 5.3 Anti-Social Behaviour is taken very seriously and the Housing Managers work closely with the Police and other agencies to ensure that problems are investigated and where appropriate legal action is taken to protect other residents.
- 5.4 The Income Recovery Team manages rent collection, advises tenants about their rents and Benefit applications, makes referrals to debt advice and floating support and helps tenants to address any arrears which have accrued.
- 5.5 We are very keen that tenants are able to manage their tenancies properly, that they do not get into rent arrears or carry out acts of Anti-Social Behaviour.
- 5.6 **Helping new tenants:** We carry out an interview with all new tenants which covers:
- i. Ensuring the tenant understands the terms and conditions of the Tenancy Agreement
 - ii. Methods and frequencies for paying their rent and accessing benefits
 - iii. Checking if they have any particular support needs
 - iv. Highlighting opportunities to get involved
 - v. Explaining how to report repairs and our service standards

- 5.7 We aim to visit all new tenants between four to eight weeks of them moving into their new home to check that everything is going well for them. We will check whether they are paying their rent regularly, whether they are receiving their benefits, and that they are keeping to the terms of their tenancy conditions.
- 5.8 When tenants move into one of our Sheltered properties we discuss with them the level of individual support they need from the Council's Home Support Team.
- 5.9 **Help for existing tenants** – is available from our Housing Managers or one of our Floating Support schemes, including the Council's own Family Support Team. If tenants are experiencing problems managing their tenancy, such as rent arrears, budgeting/benefits difficulties, neighbour nuisance or anti-social behaviour we can discuss their options for resolving such issues and put them in touch with other agencies that may be able to help.
- 5.10 When Notices for rent arrears are served we send out details regarding the local Citizens Advice Bureau and the Council's Housing Options Team.
- 5.11 Our newsletters contain regular articles stressing the importance of contacting us as early as possible if a tenant is having difficulty paying their rent.
- 5.12 Where we identify that a tenant needs particular support to manage in their home we will put them in touch with the relevant agencies such as Adult Social Care or Children's Services.

6.0 Supporting Vulnerable Tenants

- 6.1 The Council is committed to ensuring that all tenants are well informed about their rights, responsibilities and how to access services. A wide range of leaflets are published including a Tenants' Handbook. Information is also available on the Council's website and newsletters are published regularly. Guidance is published on repairs responsibilities and there is a full repairs service. Repairs are reported to a call centre, homes are inspected promptly and any necessary work carried out quickly. Residents are informed of the issues which affect them and their homes and communities through the Tenants' Panels which work to ensure that residents have a proper say in decision making.
- 6.2 Financial problems are common reasons for tenants losing their homes. A range of measures are in place to assist people to manage their finances and increase household income. These include:
- i. Referral to Debt and Welfare Benefit Advice
 - ii. Close working with Housing Benefit (Universal Credit) staff to ensure claims are assessed and paid promptly
 - iii. A wide range of payment methods for rent and service charges
- 6.3 Tenants can become vulnerable at any point in their tenancy for a number of reasons such as illness, age or financial difficulties. Frontline staff are trained to signpost vulnerable residents to statutory and voluntary agencies that can offer assistance. Referrals are made to Adult Social Care and Children's Services and other support agencies, including the Council's own Family Support Team.

6.4 Ending a tenancy and seeking possession for a breach of tenancy is always a last resort, and only considered after all available support has been offered but declined or failed. Support provided at an early stage should help prevent eviction and homelessness. Even once possession is being pursued, support will continue to be offered, and tenants will be clearly advised of the legal processes being followed, the seriousness of their situation and their legal rights.

7.0 Preventing and Tackling Tenancy Fraud

7.1 It is important that the people living in our properties are those who need them most. We take various steps to ensure that this is the case, from ensuring we allocate a property to the most appropriate person, to following up allegations of fraud and misuse.

7.2 There are three main types of tenancy fraud:

- i. Obtaining a tenancy by deception
- ii. Sub-letting the whole property
- iii. Fraudulent succession or assignment claims

7.3 In order to prevent tenancies being obtained falsely, photo ID is required as part of the housing application process. We also take a photograph of each new tenant and they are visited frequently throughout the year to help them settle in and this helps them to understand their tenancy obligations.

7.4 We have started a regular series of in-depth estate checks.

7.5 We follow up any reports of unoccupied properties or sub-letting of properties and will take action on any unauthorised occupants.

8.0 Ending a Tenancy

8.1 When a tenant gives notice or dies we carry out pre-termination visits with either the tenant or their next of kin. During this visit we:

- i. Check the condition of the property and garden
- ii. Ensure the rent account is up to date
- iii. Agree with the out-going tenant which items can be left in the property and which must be removed
- iv. Ensure that the out-going tenant is aware that the property must be left in a good and clean state, and all rubbish and personal items (except those agreed above) must be cleared from the property
- v. Read the meters
- vi. Request a forwarding address, contact details and phone numbers
- vii. Determine any recharges that may be payable

8.2 If there is any rent due to the end of the tenancy the tenant will be informed and expected to pay the amount due in full before the tenancy ends.

9.0 Circumstances where a new Flexible Tenancy may not be offered at the same property

9.1 Where there is under occupation, in most cases the tenant will not be offered a new Flexible Tenancy at the same property and will be offered the opportunity to bid for a Flexible Tenancy at an alternative property, of the size needed. If bidding is unsuccessful, one direct offer of accommodation may be made. Any direct offer will take into account where possible, and subject to the availability of properties, the tenant's preferences, support networks and any other relevant considerations.

9.2 There may be circumstances where the Council wishes to be more flexible regarding under occupation and it may be appropriate to offer a new Flexible Tenancy at the same property where:

- i. The impact of moving could have serious consequences on the health of the tenant or another member of the household
- ii. The property has been adapted for a disabled person and it would be costly and disruptive to reinstate those adaptations at another property
- iii. The household will shortly not be under occupying, for example where dependent children will require separate bedrooms in the immediate future.

10.0 Circumstances where no new Flexible Tenancy may be offered at any property

- i. There has been a serious and persistent breach of the Tenancy Agreement
- ii. Exceptional circumstances exist and consequently the tenant has not participated in the Review (this will only be implemented where it would have been reasonable for the tenant to participate in the review and where non-participation is unrelated to their vulnerability)
- iii. The tenancy granted was for a non-renewable term.

11.0 Ending a Flexible Tenancy

11.1 Where a Flexible Tenancy was offered on the basis that a further tenancy may be offered at the end of the term, the decision not to offer a new Flexible Tenancy at the same or another property will be recommended by the Housing Manager and agreed by the Allocations Team Leader. Following the Review a Notice of Non-Renewal will be served at least six months before the tenancy is due to end setting out:

- i. That the landlord does not propose to grant a further tenancy on expiry of the term
- ii. Why no further tenancy is being granted
- iii. That the tenant has a right to appeal and how they can do this and the timescales for the appeal.

11.2 A Notice of Seeking Possession will then be served on the tenant giving at least two months' notice that possession is required. This can be served at any time

until the last day of the tenancy. If the tenant does not move out on the last day of the tenancy, a Court Order will be applied for to end the tenancy.

11.3 Where the Flexible Tenancy was offered on the basis that it was a Non-Renewable Flexible Tenancy, a Notice of Non-Renewal will be served at least six months before the tenancy is due to end, setting out that the fixed term is coming to an end, and as the tenancy was offered on the basis of it being non-renewable, no further tenancy will be granted. Information will also be provided on the right to appeal. A Notice of Seeking Possession will be served on the tenant giving at least two months' notice that possession is required. This can be served at any time until the last day of the tenancy. If the tenant does not move out on the last day of the tenancy, a Court Order will be applied for to end the tenancy.

11.4 Where a Flexible Tenancy is being ended by the tenant, at least four weeks' written notice must be given by the tenant to the Council. The tenancy will then come to an end on the date provided.

12.0 Advice and assistance at the end of a Flexible Tenancy

12.1 A Review will take place to consider whether a new Flexible Tenancy will be offered at the same or another property. A Review will not be held where the Flexible Tenancy was offered on the basis that it was Non-Renewable.

12.2 The tenant will be asked to provide all relevant information and may request a meeting with the Housing Manager to discuss their situation. The tenant may also bring a friend, support worker or representative. The Review is intended to be a positive experience for tenants.

12.3 The Review will consider:

- i. The support and advice needs of the household – Advice may be given on a range of matters including signposting to other Council services and employment, training or money advice. Referrals may be made to other Council services such as Adult Social Care or Children's Services. Tenants will also have the opportunity to discuss any difficulties they are experiencing in managing their tenancy or to report any nuisance or harassment that they may not have previously reported.
- ii. Other housing options and the long-term housing plans of the tenant and their household – Advice will be given where appropriate on other housing options that the tenant, or members of the household, may be interested in such as Sheltered accommodation, the Right to Buy, Mutual Exchanges, Thamesway Housing or assistance for moving into the private rented sector.
- iii. Income and Capital – The combined income and capital of the tenant, their spouse, civil partner or partner will be calculated to establish where market or intermediate housing may be an option. Where appropriate, other housing alternatives will be discussed. The tenant may also wish other household income to be taken into account if they are considering other housing options.
- iv. Household Composition and under occupation or overcrowding – An assessment of the size of property needed as per the Council's Housing Allocations Scheme will be completed to determine whether there is under occupation or overcrowding. The household members included in the

assessment will be the same as those included in general registrations for housing in the Housing Allocation Scheme. Friends, lodgers and sub-tenants living with the tenant are excluded. If the property is under occupied, in most cases, an alternative property which better meets the tenant's need will be offered. If there is overcrowding, a further Flexible Tenancy at the same address will be issued and advice given about making an application for a transfer, applying for a Mutual Exchange and on any other options, such as space saving solutions.

- v. The way the tenancy has been conducted – Any proven breaches of the Tenancy Agreement and agreements to remedy those breaches will be considered.

12.4 A tenant whose Flexible Tenancy is not going to be renewed can also contact the Housing Options Team for advice and information about possible housing options.

12.5 If the tenancy is not being renewed because the property is going to be under occupied, we will assist the out-going tenant to access other suitable accommodation and this may well be by moving to smaller Council or other Registered Provider accommodation. In these cases tenants may be eligible for assistance through the Council's Housing Allocations Scheme.

12.6 We will give at least six months' notice that the tenancy is coming to an end, and a formal Notice of Seeking Possession will be served at least two months prior to the end date.

12.7 At the end of the tenancy we will carry out a pre-termination visit.

13.0 Appeals about the length of the Flexible Tenancy

13.1 Following an offer to grant a Flexible Tenancy, or service of notice by the Council on an Introductory tenant confirming that their tenancy is to become a Flexible Tenancy, the tenant can appeal on the basis that the length of the Flexible Tenancy does not accord with the Tenancy Policy.

13.2 Tenants must request an appeal within 21 days of receiving the Flexible Tenancy offer or notice confirming that their Introductory Tenancy is to become a Flexible Tenancy.

13.3 The appeal can be made in writing, by phone or email and must set out why the tenant considers the tenancy length offered does not accord with the Tenancy Policy. The appeal will be considered within 21 days unless more information is needed to make the decision and could not reasonably be obtained within the 21 days.

13.4 In some cases a face to face meeting with the tenant or prospective tenant may be needed in order to consider the appeal, for example where the full reasons for the appeal cannot be established in writing or over the phone. In these cases tenants will be able to bring a representative. The Secretary of State may issue directions about oral hearings and this policy will incorporate any such directions.

13.5 Whilst the appeal is being considered, the tenant or prospective tenant is expected to move into the property with the tenancy term offered. Any amendments to the length of the tenancy will be made retrospectively, subject to the outcome of the appeal.

13.6 The appeal will be determined by a more senior manager than was involved in the initial decision. The reasons for the decision will be set out clearly in writing. The decision maker can decide to:

- i. Maintain the original decision
- ii. Offer an alternative Flexible Tenancy term in line with the Tenancy Policy
- iii. Offer a Secure Tenancy in line with the Tenancy Policy

13.7 If the original decision is upheld, the tenant will be informed of how they can challenge the reasonableness of the decision either by making a complaint to the Ombudsman, bringing a claim for Judicial Review or obtaining independent housing advice.

13.8 Appeals about decisions not to offer a new Flexible Tenancy at the same property or a different property

13.9 An appeal request must be made within 21 days of the date of the service of the Notice of Non-Renewal. The appeal will consider if the decision not to offer a new Flexible Tenancy is in accordance with the Tenancy Policy. The appeal can be requested in writing, by phone or email and must set out why the tenant considers that the Council's Tenancy Policy has not been followed. The appeal will be considered within 21 days unless more information is needed to make the decision and the information could not reasonably be obtained within the 21 days.

13.10 In some cases a face to face meeting with the tenant may be needed to consider the appeal, for example where the full reasons for the appeal cannot be established in writing or over the phone. In these cases the tenant will be able to bring a representative.

13.11 The appeal will be determined by a more senior manager than was involved in the initial decision. The reasons for the decision will be set out in writing. The decision maker can decide to:

- i. Uphold the decision not to offer a further tenancy at the same property or a different property
- ii. Offer a further Flexible Tenancy at the same property or a different property in line with the Tenancy Policy

13.12 If the original decision is maintained, the tenant will be informed of how they can challenge the reasonableness of the decision by making a complaint to the Ombudsman, requesting a Judicial Review or obtaining independent housing advice.

14.0 Succeeding to a tenancy

- 14.1 This section applies to both Secure and Flexible Tenancies
- 14.2 When a tenant dies the tenancy can sometimes be passed on to another member of the family and this is known as succession.
- 14.3 There are different succession rights in law for different types of tenancies and this is known as a statutory right of succession.
- 14.4 The legal framework for Secure Tenancies granted before 1 April 2012
- 14.5 The law allows for one statutory succession to either:
- i. The deceased tenant's spouse or civil partner providing they were living with the deceased tenant at the time of their death as their main home, or
 - ii. A member of the deceased tenant's family who had been living with the deceased tenant for twelve months prior to the tenant's death as their main home
- 14.6 Family members are defined as parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces and partners. The law does not allow for joint succession, so if there are a number of potential joint successors they must choose who will take over the tenancy. If they are unable to 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 housing need.
- 14.7 The legal framework for Secure Tenancies granted on or after 1 April 2012 and for Flexible Tenants
- 14.8 The law allows one statutory succession to a spouse, partner or civil partner of the deceased tenant, who was living with them at the time of the tenant's death as their main home.
- 14.9 Where there is a statutory succession to a Flexible Tenancy, the tenancy will last until the Flexible Tenancy ends. The offer of a new Flexible Tenancy will then be considered in line with the Tenancy Policy.

15.0 Statutory Succession

15.1 Where the property is too big for a Statutory Successor, and the law allows it, the Council will require them to move to an alternative property which meets their housing need unless their circumstances are exceptional. Housing need will be assessed in line with the Council's Bedroom Standard, or any equivalent standard set out in the Housing Allocations Scheme. A Statutory Successor who is required to move to a more suitable property will be awarded suitable priority under the Council's Housing Allocations Scheme.

15.2 Discretionary Succession

15.3 In certain circumstances if the tenant dies and there has already been one statutory succession of the property, the Council reserves the right to offer a discretionary succession. Households who have no statutory right to succeed to a

Council tenancy but where rehousing to more suitable accommodation has been agreed will be awarded suitable priority on the Council's Housing Allocations Scheme.

15.4 Where there is a Flexible Tenancy – the rules regarding succession changed from 1 April 2012. For tenancies which start after this legislation there will only be a statutory right of succession to a spouse, partner or civil partner. Legislation gives Local Authorities the power to grant additional succession rights. However, this Council has chosen not to grant additional rights and will adopt the changes in the Localism Act. Where the Council decides to seek possession of a property following the tenant's death, we will provide advice and assistance to any person(s) remaining in occupation.

16.0 Tackling Under- Occupation

16.1 We recognise that we have a large number of family properties which are under-occupied.

16.2 Changes to Housing Benefit regulations where properties are under- occupied will restrict levels of Housing Benefit resulting in tenants having to make a contribution towards the cost of their rent.

16.3 The Council's Housing Allocations Scheme encourages tenants to downsize and may give priority (Band B). In some situations, the Council's downsizing scheme may provide financial assistance to people who move to a smaller property usually in a Sheltered Scheme (for people aged 60+) and so free up a family-sized property. This scheme may also provide help and support with removal arrangements.

17.0 Adapted Properties

17.1 Under our current Secure Tenancy Agreement, if a tenant is living in a property which has been built or adapted for a person with a disability, and the tenant or their family no longer need that type of home, we may take steps through the Court to end the tenancy.

17.2 We will try as far as possible to offer the tenant and/or their family members other suitable accommodation.

17.3 For tenants on a Flexible Tenancy living in a property which has been built or adapted for a person with a disability, we will only renew the tenancy if there is still a requirement within the household for that type of property, and where none of the other conditions apply.

18.0 Transfers

18.1 For Secure tenants who transfer to another property, we will ensure that they are given another Secure tenancy.

18.2 This does not apply to tenants who choose to move to accommodation let on Affordable Rent terms. In these circumstances existing tenants may be offered a Flexible Tenancy.

18.3 If tenants are required to move by the Council to a property on Affordable Rent, then 18.1 above applies. For example where demolition is required.

19.0 Mutual Exchanges

19.1 Mutual Exchanges usually take place via a Deed of Assignment where each tenant steps into the other's shoes and takes over the other tenant's tenancy type and terms. New Tenancy Agreements are not signed.

19.2 Under the Localism Act if at least one of the tenants has a Secure Tenancy which began before 1 April 2012 and at least one of the tenants is on a Flexible Tenancy, then such exchanges must be done by surrender and granting of new tenancies.

19.3 In these circumstances, we will grant the tenant whose Secure Tenancy predated 1 April 2012, a Secure Tenancy. This will ensure that existing tenants (before 1 April 2012) retain similar security of tenure to that of their original tenancy.

19.4 As a landlord we can still refuse an exchange of this nature. We have 42 days to make that decision.

20.0 Communicating the Tenancy Policy

20.1 This section applies to all tenancies

20.2 Flexible Tenancies are a big change from tenancies which are given for the life of the tenant. New Flexible tenants will be made aware of these changes when bidding, at sign-up and at any opportunity throughout the tenancy. They will be advised that the Council expects that in the majority of cases a new Flexible Tenancy will be offered when theirs expires, and this will help people to feel settled in their homes which is particularly important to provide stability to vulnerable people and those with a family.

20.3 It is important that tenants fully understand when a new Flexible Tenancy will not be offered, and the reasons for this, so it does not come as a surprise. The terms of the tenancy will be strongly communicated in an accessible way throughout the tenancy, in face to face meetings and in correspondence with the tenant and also in publications.

20.4 Secure tenants will also be made aware of these changes and of the Tenancy Policy so they understand that these changes will generally not affect them.

20.5 Advice and support agencies will be informed about the Tenancy Policy so they are well-placed to give advice to their customers.

21.0 Outcomes

21.1 This policy aims to ensure that:

- i. The right people are living in the right property on the right type of tenancy
- ii. Certain groups of tenants can be moved from properties which are no longer suitable for their needs
- iii. Tenants will be encouraged to move to more suitable accommodation if the property becomes too big or if their needs or circumstances change
- iv. Tenants will be helped to sustain their tenancies for the long term, but where problems occur, particularly at the start of the tenancy, action can be taken quickly
- v. Tenancy fraud is identified and tackled

22.0 Exceptional Circumstances

22.1 There may be times when the relevant senior officer may exercise discretion in relation to the Tenancy Policy due to exceptional circumstances and will do this by taking into account all the circumstances considered appropriate, including the demand for and supply of accommodation and the general housing circumstances within the Borough of Woking.

23.0 Responsibility

23.1 The Housing Needs Team will be responsible for ensuring that the right people are placed in the right property on the right type of tenancy.

23.2 The Housing Management Team will be responsible for issuing Tenancy Agreements and ensuring that tenants are given support to maintain their tenancy and that action is taken where problems occur and where tenancy fraud is suspected.

23.3 The Housing Task Group will be responsible for recommending any changes to this policy. Any significant changes will be consulted on and agreed with the relevant Committees.

24.0 Performance Monitoring

24.1 We will monitor:

- i. The number of each type of tenancy
- ii. What happens at the end of a Flexible Tenancy
- iii. How many Flexible Tenancies are terminated and for what reasons
- iv. What assistance is given to these tenants
- v. The number of Appeals

24.2 The full impact of the Tenancy Policy on different groups of people under the Equality Act 2010 will not be known until the first tenancies are reviewed.

25.0 Reviewing the Tenancy Policy

25.1 This policy will be reviewed at least every five years or sooner if new legislation or guidance is published.

26.0 Related Policies and Strategies

- i. Woking Borough Council's Tenancy Strategy
- ii. Woking Borough Council's Housing Allocations Scheme
- iii. Woking Borough Council's Housing and Homelessness Strategy