



Transforming **lives**
Revitalising **neighbourhoods**



POLICY:	Tenancy
Ref No:	15B
Date Approved:	June 2012
Approved By:	Housing Services Committee
Applicable to:	Riverside excluding Scotland
Lead Director:	Steve Ward
In Consultation with:	Federation of Tenants and Residents Housing Reform Task and Finish Group
Regulatory standard:	Tenure
Associated Procedure:	Lettings/Neighbourhood and Tenancy Management procedures
Associated Leaflet/s:	
Review Date:	June 2015



Tenancy Policy

This is a sub-policy of the Lettings Policy
Date: 28 June 2012

1. Policy Statement

The Housing Services Committee must agree any changes to this policy statement.

Riverside has prepared this policy to help meet the requirements of 2.1 of Tenancy Standard in the 'new regulatory framework for social housing in England'. This changes previously issued guidance that providers of social housing should normally offer the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community. The new guidance is that tenancies should be granted that are compatible with the:

- Purpose of the accommodation;
- Needs of individual households;
- Sustainability of the community; and
- Efficient use of Riverside's housing stock.

The policy is designed to offer security to our social housing tenants that is consistent with these aims, whilst reserving our ability to offer tenancy agreements that allow us to make best use of stock in the context of the housing market in a particular locality.

Riverside will normally offer "lifetime tenancies" which are open ended in length and which run until terminated by either the tenant, by court order or (if the tenancy is no longer assured or secure) Riverside.

Once tenancies have been established Riverside makes every effort to ensure that they are sustained. We make available a comprehensive series of policies addressing allocations, estate management and income management which set out our principles; these are designed to ensure we let our properties in a transparent way, promote good tenancy conduct and minimise the need for evictions. We will act promptly to detect tenancy fraud and apply appropriate sanctions. We have a published homelessness strategy based around the three principles of prevention, partnership and provision as well as a detailed procedure on sub letting to ensure that we minimise unauthorised occupation.

	This policy deals in particular with ‘flexible tenancies’ which are time limited in length and are for a defined period of years only.
2.	<p>Description of the general issues surrounding the policy subject</p> <p>2.1 The types of tenancy we will provide</p> <p>Riverside will normally grant one of the following agreement types</p> <ul style="list-style-type: none"> • Secure tenancies under the Housing Act 1985 • Assured Tenancies under the Housing Act 1988 • Protected Assured Tenancies – a form of assured tenancy for tenants who were previously secure tenants of a local authority or New Town and have preserved rights. • Starter Tenancies - an assured shorthold tenancy agreement which converts to a full assured tenancy after a starter (probationary) period usually of 12 months (which can be extended in certain circumstances). • Assured Shorthold tenancies – fixed term and periodic tenancies which provide reduced security of tenure within a periodic or fixed term tenancy agreement.¹ • Licence agreements and contractual tenancies with no security of tenure – granting limited rights to occupy a property in certain circumstances. <p>2.2 Duration of flexible tenancies</p> <p>Where a flexible tenancy is granted we will normally offer a tenancy that will run for five years (in addition to any starter period of twelve months).</p> <p>We may consider the offer of flexible tenancies to run for periods of less than five years where this is appropriate to the accommodation or client group in question for example:</p> <ul style="list-style-type: none"> • Short term lettings where a degree of support is provided and it is anticipated that the tenant will move on to more settled accommodation within a period of less than five years • Properties let on intermediate or market rents • Lettings carried out for management reasons such as:

¹ Flexible tenants will receive a form of assured shorthold agreement.

- Tenants who move into a property to allow work to be carried out in their existing home or pending the identification of more suitable accommodation where the property has been let following an emergency such as a fire or flood in the permanent home.
- Offers of temporary accommodation to staff who move into an area to take up employment.

2.3 The circumstances in which we will grant tenancies of a particular type.

Secure tenancies will be offered to tenants who currently have secure tenancies with Riverside but move to other properties owned by Riverside. These are lifetime tenancies.

Assured tenancies are also lifetime tenancies and will be offered to existing Riverside assured tenants who are transferring to another property owned by Riverside and new tenants who do not meet the criteria for being offered starter or flexible tenancies.

Protected assured tenancies will therefore only be offered to existing Riverside protected assured tenants who move within their stock transfer area and in accordance with the terms of the stock transfer agreement.

Starter tenancies. A starter tenancy is a particular type of assured shorthold tenancy designed to be used within a wider strategy for managing anti-social behaviour. It is (potentially) a lifetime tenancy which includes a one year starter or probationary period during which possession can be sought more easily in connection with anti-social behaviour. These are normally used for new tenants but may not be used in all areas depending on the approach set out in the Local Allocations Strategy and agreed with the Divisional Boards. Once the tenancy has been satisfactorily conducted for 12 months (or as extended) the tenancy normally converts to a full assured tenancy which is a lifetime tenancy.

Note secure and assured tenants who move out of their property on a temporary basis to allow remedial or planned work to be undertaken will be given an equivalent level of security when they return to their original home. This includes tenants with protected assured and starter tenancy agreements.

Flexible tenancies. Riverside will not use flexible tenancies as the standard offer for new tenants. We will however consider the offer of such tenancies in some instances where the following criteria apply:

- It is consistent with the local allocations strategy which has been approved by the Divisional Board **and**
- The use of flexible tenancies has been the subject of a dialogue with the local authority and wherever possible is consistent with their published tenancy strategy **and one of the following apply:-**

- It is agreed as part of a scheme developed with a local authority or other partnership arrangements **or**
- The nature of the housing market in an area makes it appropriate to maintain the supply of scarce housing in an area **or**
- The property is within specialist accommodation and intended for a particular group of tenants who may not require a tenancy for life

2.4 Criteria for granting a further flexible tenancy

At least six months before a flexible tenancy ends, we will provide notice in writing to the tenant stating either that we, propose to grant another tenancy at the end of the period of the tenancy and under which terms, or that we do not propose to grant a further tenancy.

The main triggers for assessing whether a further tenancy may be offered would be: income; family size; suitability of property; vulnerability; management considerations such as levels of demand. Full account of the local housing market will be taken when arriving at any decision.

Circumstances where we may agree to a new offer of a tenancy include:

- If a tenant's financial or other circumstances mean that it is unlikely that the tenant will be able to find suitable alternative housing outside the social housing sector or purchase their own home. For would-be purchasers our decision will take into account the likelihood that they can obtain mortgage finance including the necessary deposit.
- If the tenant is a carer for a member of the household and is unlikely to be able to access suitable alternative accommodation to meet their needs.
- If the property itself is not of a type that is in high demand
- If we are looking to balance the economic status of residents in a given neighbourhood.

This list is not exhaustive – each case will be considered on its merits.

A new tenancy of the same property on similar terms should not normally be granted if:

- The tenant's financial circumstances are such that they are likely to be able to meet the housing needs of themselves and their household outside the social housing sector or by buying their own home (either outright or on shared ownership terms).
- The property is overcrowded or under occupied according to the criteria in our transfer policy (under occupied means having more than one spare bedroom)
- The property is no longer suitable for the household's needs or they do not require any specialist facilities or adaptations offered.

This list is not exhaustive – each case will be considered on its merits. Where a new tenancy is not offered and the tenants do not move out of their own accord possession of the property will be sought following issue of a Notice Requiring Possession.

2.5 Appeals

A tenant or prospective tenant will be entitled to appeal against the length of flexible tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the period.²

2.6 Vulnerable households

The following people will be exempt from the FTT regime

- Supported housing residents and applicants
- Sheltered housing residents and applicants
- General needs tenants and applicants above normal retirement age (being the age at which state pension is payable)

In addition to these lettings staff will be expected to make an additional assessment at pre-offer stage which takes into account vulnerability for reasons such as age, disability and illness. This assessment will include considering whether the tenant/applicant or a member of their household:

- Are disabled and have particular accommodation needs
- Have experienced hate crime or domestic violence
- Have moved on from supported accommodation
- Are receiving floating support
- Are ex-offenders
- Have complex or multiple needs e.g. those recovering from substance abuse and people with mental health issues

The purpose of this assessment would be to maximise the ability of the potential tenant to achieve a stable tenancy. Riverside may make an offer of a lifetime tenancy (in circumstances where a flexible tenancy might otherwise have been offered) where the pre-tenancy assessment indicates that this will give a vulnerable person the best chance of sustaining a tenancy and a settled lifestyle.

When the end of a flexible tenancy approaches we would consider whether a potentially vulnerable tenant might remain in the property if suitable adaptations are provided and it is practical to carry them out.

² The review procedure will accompany the final version of the policy

2.7 What options might we offer to tenants at the end of a flexible tenancy?

Depending on the agreed local approach and criteria Riverside may offer the following options at the end of the period of the flexible tenancy.

1. A lifetime tenancy
2. A further flexible tenancy of the same period
3. A further flexible tenancy for a different period (a minimum of two years)
4. Options 1-3 at a different rent (social or affordable)
5. Options 1-4 at a different property
6. The opportunity to take the same or a different Riverside property on a shared ownership basis
7. The opportunity to take up an alternative Riverside home ownership scheme e.g. Ownplace
8. The option to buy the property under an approved voluntary purchase scheme (if applicable)

However our ability to offer alternatives will be determined by the availability of suitable accommodation in the preferred location.

In addition to the above all flexible tenants will be offered information advice and guidance on identifying future housing options at least six months before the expiry of the tenancy.

2.8 Policy on granting discretionary succession rights

Riverside has a range of tenancy agreements which set out the rules for the granting of successions. In all cases these comply with the statutory requirements. Our more recent assured agreements grant succession rights in excess of the statutory minimum giving parity between assured and secure tenancies. This means that succession rights for those tenants will apply to:

- Spouses and partners
- Family members (as defined in the tenancy agreement) who have resided with the tenant for 12 months

For flexible tenants the succession rights apply automatically to spouses and partners and would give rights to succeed to the tenancy for the remainder of the period. Riverside will also allow successions by family members (as defined in the flexible tenancy agreement) for the remainder of the period.

3.	<p>Legal and regulatory context and framework.</p> <p>The Localism Act does not place a statutory obligation on housing providers in relation to tenancy policies. Instead, a new regulatory requirement to develop a tenancy policy has been created in the ‘new regulatory framework for social housing in England’ (published by the Tenant Services Authority in March 2012).</p> <p>The requirements of the formal regulatory standards are integral to this policy and are set out in sections 1 and 4 of this policy.</p> <p>The relevant legislation is:</p> <p>Localism Act 2011 The Housing Act 1985 The Housing Act 1988 The Housing Act 1996 The Human Rights Act 1998 Housing and Regeneration Act 2008 Equality Act 2010</p> <p>The policy does not apply to Scotland as there is a different legislative framework in place.</p>
4.	<p>Standards</p> <p>The Tenure standard in the new regulatory framework sets the specific expectation that registered providers shall ‘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’. It also sets out detailed requirements for what tenancy policies should cover including the types of tenancies granted, the length of the period of a flexible tenancy and the criteria for any decision making including what happens at the end of a flexible tenancy. It also covers the need for an appeal system, provisions for vulnerable customers and the requirement to offer advice and assistance to people whose tenancies are not renewed. The provisions regarding succession rights should also be covered.</p> <p>This document has been written to mirror the requirements in the Tenure standard.</p> <p>The use of flexible tenancies in a given location must be obtained from the Divisional Board and wherever possible the local authority.</p>
5.	<p>Performance reporting: standards and requirements</p> <p>The new regulatory framework reflects the future distinction between the regulator’s economic and consumer regulation roles. The Homes and Communities’ Social Housing Regulator will have minimal involvement in consumer regulation and only intervene in a service delivery matter "if</p>

	<p>there is evidence of actual or potential serious detriment to tenants". It will now be for registered providers (RPs) working with their tenant panels and with councillors and MPs to deal with "less serious breaches" of the consumer standards.</p> <p>There are at present no formal external reporting requirements on the use of fixed term tenancies.</p>
6.	<p>Implementation</p> <p>A detailed implementation will be produced in consultation with the Housing Reform Task and Finish Group. This will be designed to ensure that:</p> <ul style="list-style-type: none"> • The correct forms of tenancy agreements are drafted and available • Procedures are agreed and in place • The policy is communicated to staff and key stakeholders • Relevant training is delivered • The use of flexible tenancies is monitored and evaluated at divisional level.
7.	<p>Impact Assessment</p> <p>This policy has been equality impact assessed and has been judged to be fair and in line with Riverside's commitment to Equality and Diversity which states that Riverside is committed to equality and strives to be fair in its dealings with all people, communities and organisations with which it has relationships and take into account the diverse nature of their culture and backgrounds.</p> <p>This policy complies with Riversides commitment to ensuring that no person or group of people will be treated less favourably than another person or group of people and will develop and deliver services that actively take into account:</p> <ul style="list-style-type: none"> • The Nine Protected Characteristics of age, gender, transgender, disability, racial ethnic origin, religion or belief, sexuality, marriage or civil partnership and pregnancy. • Social and economic factors leading to disadvantage or exclusion including but not exclusively such things as employment status, caring responsibilities, having long term health conditions, having reading or writing difficulties, leaving care, having unrelated criminal convictions, being without English as a language and appearance. • The Human Rights Act 1998. <p>In particular the policy addresses vulnerability by exempting sheltered and supported tenancies from the flexible tenancy regime and specifying that vulnerability factors should be taken into account at each stage in the decision making process for fixed term tenancies.</p> <p>It is also anticipated that the requirement for consultation and approval by</p>

	Divisional Boards and local authorities will act as a filter to ensure that the nine protected characteristics are taken into account when approving individual flexible tenancy initiatives.
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