

# Tenancy Policy 2014 - 2017

Author: Kathy Ayres – Rehousing Manager

Section/Directorate: Housing Choice

Consultation Date: *18 November 2013 – 6 January 2014*

Date of Service  
Impact Assessment:

Endorsed by: Cabinet  
Date:

Policy Review Date: 2017

Issue No 2

# Content

	<b>Page No.</b>
<b>Introduction</b>	<b>5</b>
<b>1. Policy Statement</b>	<b>5</b>
<b>2. Aims of the Policy</b>	<b>5</b>
<b>3. Scope of the Policy</b>	<b>6</b>
<b>4. Types of tenancies that will be offered</b>	<b>6- 9</b>
4.1 Definitions	6
4.2 Introductory Tenancies	7
4.3 Flexible Tenancies	7-8
4.4 Flexible tenancies period	8
4.5 Secure tenancies	9
<b>5. Flexible tenancy reviews</b>	<b>9</b>
5.1 Review Process	9-10
5.2 Matters to be considered at the Review	10-11
5.2.1 The Support and advice needs of the household	10
5.2.2 Other housing options and the long term housing plans of the tenant and their household.	10
5.2.3 Income and Capital.	10-11
5.2.4 Household composition and under-occupation or overcrowding.	11
5.2.5 Other housing needs include needs relating to a disability.	11
5.2.6 The way the tenancy has been conducted.	11
5.3 Review outcomes.	11-12
5.4 Circumstances where a flexible tenancy may not be offered of the same property.	12
5.5 Policy flexibility in cases of under-occupation.	12-13
5.6 Circumstances where no new flexible tenancy may be offered of any property.	13-14
5.6.1 There has been a serious and persistent breach of the tenancy agreement	13
5.6.2 The tenant or a member of their household has been evicted of serious housing-related anti-social behaviour in another court, and the offence meets the criteria to trigger any mandatory right of possession.	13
5.6.3 Exceptional circumstances exists and consequently the tenant has not participated in the review.	13-14
<b>6. Ending a flexible tenancy</b>	<b>14</b>
<b>7. Appeals about flexible tenancies</b>	<b>14-15</b>
7.1 Right to complain about the length of the flexible tenancy or about decisions not to offer a new flexible tenancy of the same or another property.	14-15

**Page No.**

<b>8.</b>	<b>End of tenancy advice and assistance for tenants</b>	<b>15-16</b>
8.1	Further flexible tenancy but of a different property.	15
8.2	Where no further flexible tenancy has been offered.	15-16
<b>9.</b>	<b>Successions</b>	<b>16-18</b>
9.1	About succession.	16
9.2	Eligibility for discretionary successions.	16-17
9.3	Where more than one person is eligible.	17
9.4	The property of which a tenancy will be granted.	17
9.5	Length of flexible tenancy	17
9.6	Advice and assistance to household members of deceased tenants.	17-18
<b>10.</b>	<b>Approach to tenancy management</b>	<b>18-20</b>
10.1	Tenant information and advice	18
10.2	Interventions to sustain tenancy	18
10.3	Support for vulnerable tenants	19
10.4	Preventing unnecessary evictions	19
10.5	Preventing and tackling tenancy fraud	19
10.6	Identifying tenancy fraud	19-20
<b>11.</b>	<b>Exceptional circumstances</b>	<b>20</b>
<b>12.</b>	<b>Reviewing the Tenancy Policy</b>	<b>20-21</b>
12.1	Regular Review	20
12.2	Equality Impact	20-21
<b>13.</b>	<b>Letting people know about this Tenancy Policy</b>	<b>21</b>
13.1	Flexible tenants	21
13.2	Where a new flexible tenancy will not be affected	21
13.3	Secure tenants	21
13.4	Advice and support agencies	21

## **Introduction**

In 2011 the Coalition Government introduced the Localism Act. In accordance with the provisions in the Act, Basildon Borough Council (“the Council”) has adopted a Tenancy Strategy. This Tenancy Policy follows the principles and objectives of the Tenancy Strategy and should be read in conjunction with it.

This Tenancy Policy details the steps that the Council will be taking to comply with the Act and how the new flexible tenure will be implemented in the Council’s own stock.

The Basildon Tenancy Strategy has also been developed to guide all providers of social housing in the Borough in setting policies for their own stock.

This document will be published on the Council’s website ([www.basildon.gov.uk](http://www.basildon.gov.uk)) and copies will be provided free of charge to anyone who might request a copy.

## **1. Policy Statement**

In accordance with the Localism Act 2011 the Council will issue tenancies that are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of its housing stock.

## **2. Aims of the Policy**

The aims of the Policy are to:-

- ensure our residents and staff are aware of the types of tenancies offered;
- ensure that all our tenancies are transparent and fair;
- aid mobility and respond to the changing needs of our residents;
- make best use of our housing stock especially by reducing under occupation and overcrowding and ensuring adapted homes are lived in by those who need them;
- have regard to the Council’s Tenancy Strategy and the Government’s strategy ‘Laying the Foundations – a Housing Strategy for England’;
- provide all tenants with the advice and support to be able to manage their tenancies satisfactorily.

In operating this Policy, the Council will seek to act in a way that is sensitive to the needs of tenants and their households, in particular vulnerable people.

## **3. Scope of the Policy**

- 3.1 This policy applies to all new tenancies that commence after [ ] 2014.
- 3.2 It sets out the Council's policies in relation to:
- (a) the types and lengths of tenancies the Council will grant in various circumstances (including exceptional circumstances in which the Council will grant flexible tenancies for a term of less than five years in general needs housing, following any probationary period);
  - (b) the circumstances in which the Council may or may not grant another tenancy on the expiry of a flexible tenancy;
  - (c) the way in which a tenant or prospective tenant may make a complaint about decisions concerning the type of tenancy to be offered and request a review of some decisions;
  - (d) how it will take into account the needs of households with vulnerable members;
  - (e) the advice and assistance it will give to tenants on finding alternative accommodation in the event that it decides not to grant them another tenancy;
  - (f) granting discretionary succession rights; and
  - (g) the Council's approach to tenancy management.
- 3.3 Where reference is made in this Policy to the 'Allocation Scheme', it means the current version of the Council's Allocation Scheme that sets out its policy on the allocation of housing accommodation within the Borough.

## **4. Types of tenancies that will be offered**

### **4.1 Definitions**

An **introductory tenancy** is a tenancy granted in accordance with the Housing Act 1996.

A **secure tenancy** is a periodic (usually weekly) tenancy granted in accordance with the Housing Act 1985.

A **flexible tenancy** is a fixed term secure tenancy for a period of not less than 2 years, granted in accordance with the Housing Act 1985, following amendments made by the Localism Act 2011.

An **assured tenancy** is a non-shorthold tenancy granted by providers of social housing (but not the Council), in accordance with the Housing Act 1988. An **assured shorthold tenancy** is a kind of assured tenancy that gives to the tenant more limited rights.

### **4.2 Introductory tenancies**

The majority of Council tenants will be introductory tenants for the first year of their tenancy.

New tenants who are transferring from another social or affordable home, whether with the Council or another provider of social housing, will not normally be offered an introductory tenancy if they are a secure or assured non-shorthold tenant or hold a flexible tenancy.

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

Before the end of the one year introductory period, the tenant will be offered a review. After this there are three options available:

- the grant of a flexible or secure tenancy; or
- an extension to the introductory period, if they need more time to demonstrate that they can keep to tenancy terms, or to clear rent arrears; or
- the tenancy may be ended.

An introductory tenancy may be brought to an end if the tenancy terms are broken. This includes where tenants commit crime, or antisocial behaviour, or fail to pay their rent. In some circumstances an introductory tenancy may be 'demoted'.

### **4.3 Flexible tenancies**

A flexible tenancy is a form of secure tenancy, which is for a fixed period. 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 the Council satisfies a court that one of the statutory grounds for possession are satisfied, and (in most cases) that it is reasonable to order possession.

By contrast, with a flexible tenancy, the court must make an order for possession where the fixed term has expired, the correct notices have been served and any review has been considered. There are no requirements to prove grounds for possession or reasonableness.

Where a flexible tenancy has not expired, the Council may also seek possession on the same grounds as apply to any secure tenancy.

From [ ] 2014, the majority of new tenancies offered by the Council will be flexible tenancies following the completion of a satisfactory introductory tenancy. In some limited circumstances secure tenancies will be offered instead of flexible tenancies.

The Council has decided to offer flexible tenancies because they allow us regularly to review our tenants' housing needs and aspirations, and to work with them to realise those aspirations and to meet those needs.

The Council proposes that the majority of flexible tenancies will be renewed several times in the years to come, allowing tenants to be settled in their local communities, much as with a secure tenancy. However, some tenants' needs may change, and we will work with them to help them move to accommodation which meets those needs. Where tenants no longer need a particular type of accommodation – such as a larger family home or an adapted home – the flexible tenancy will allow us to move them to more suitable accommodation and make that home available to people who need it.

#### **4.4 Flexible tenancy period**

The majority of flexible tenancies will be for a period of five years. Such tenancies will provide a reasonable degree of security (for example, for vulnerable people and for people with children), while enabling the Council to make best use of the housing stock for those in need.

There may be exceptional circumstances which may justify offering a flexible fixed term tenancy of less than five years. 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 these circumstances are:

- where an existing flexible tenant has persistently breached or not kept to an agreement to correct any breaches of tenancy. For example:
  - the tenant has not kept to a rent arrears agreement for eight weeks, or has been making irregular payments;
  - the tenant has received warnings about a breach of tenancy and there is evidence that the breach is continuing;
  - the tenancy has been demoted, although subsequently reinstated;

These matters will be addressed at the review meeting and a new flexible tenancy of two years will be offered, where the Council considers this is warranted in all the circumstances.

- when offering a flexible tenancy to a tenant who has previously had their introductory tenancy extended;
- where a tenancy review identifies that a tenant needs to move, but the Council cannot find a suitable alternative home immediately. This will include cases where the Council has assessed that the tenant does not have a housing need for the current property, even though the tenant may want to remain there.

#### **4.5 Secure tenancies**

Secure tenancies will be granted to:

- tenants of sheltered accommodation.



- any existing secure or assured non-shorthold tenant where they choose to move to another social rented home, whether with the same or another provider of social housing, or because they need to move due to redevelopment works (this does not apply where tenants choose to move to accommodation let on 'Affordable Rent' terms).

## **5. Flexible tenancy reviews**

As stated earlier, the Council supports the use of flexible tenancies as they provide an opportunity to periodically review a tenant's household's circumstances and tenancy record with them and, taking these into account, their future housing options. It is the Council's view that offering flexible tenancies in line with this Tenancy Policy and then assessing whether a further tenancy should be offered (of either the same or one or more different properties) will help people feel settled in their homes, provide them with a reasonable degree of stability and enable them to contribute to the community, while also ensuring that best use is made of the Council's housing stock. The review will also help people to understand the reasons why, in certain cases, a new flexible tenancy may not be offered.

When an existing flexible tenancy is coming to an end, the Council will seek to work with the tenant to ensure that their housing needs and, as far as possible, preferences (e.g. locality) are met by either:

- (a) offering or helping them to obtain another tenancy (at the same or another address, including properties let by other providers that are more suitable to the household's needs); or
- (b) where appropriate, assisting them to purchase the property they are living in (if suitable through the Right to Buy) or another suitable property, either outright or on a shared ownership/equity basis.

### **5.1 Review Process**

At least eight months, but not more than a year, before the existing flexible tenancy is due to end, the Council will review the tenant's household's circumstances and housing options with them to:

- (a) decide whether another tenancy should be offered at the same or another property and, if so, what length of tenancy should be offered and the type of rent to be charged; or
- (b) determine whether it may be possible (where income, savings and incentives allow) for the Council to assist them to purchase the property they are living in or another suitable property.

A meeting will be arranged at a time that is convenient for the tenant(s), who will be asked to bring all relevant information to the meeting. The tenant(s) will be invited to

bring any support worker, friend or other representative they wish. For joint tenancies, both tenants should attend.

Every reasonable effort will be made to ensure that tenants participate in the review. This may involve holding meetings in tenants' homes if preferred.

In some rare circumstances the review meeting can be held without the tenant being present. In these cases the tenant must be unable to participate in the review due to hospitalisation, severe health problems or for some other good reason. Instead a support worker, friend or representative of the tenant may attend the review meeting but for this to happen, it will only occur with the tenant's consent.

If the tenant refuses, or fails, to participate in the review procedure or meeting without good reason, the Council will be entitled to proceed with the review based upon the information it holds.

## **5.2 Matters to be considered at the Review**

The following matters will be considered by the Council as part of the tenancy review:

- **5.2.1 *The support and advice needs of the household.***

Advice may be given on a range of matters, including signposting to other Council services or money advice. Referrals may be made to other services such as Adult or Children's Services. The review meeting should also be an opportunity for the tenant to discuss any difficulties they are experiencing in managing their tenancy or to report any nuisance or harassment that may have gone unreported.

- **5.2.2 *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 the tenant, or members of their household, may be interested in such as: sheltered accommodation; intermediate housing; the Right to Buy; mutual exchange; housing mobility schemes; and housing in the private rented sector.

- **5.2.3 *Income and capital.***

The review will assess whether the combined income and capital of the tenant, their spouse, civil partner or partner are so high that the Council considers they are no longer entitled to occupy social housing. This assessment will be undertaken by reference to the thresholds set out in the Allocation Scheme.

For tenants who are below the thresholds but aspire to other housing options, this assessment will inform a discussion about whether 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.

If a tenancy has been let on 'Affordable Rent' terms, the review will establish whether that is still affordable to the tenant.

For tenants on low incomes, the review may also consider whether they are receiving all benefits that they are entitled to.

- **5.2.4 *Household composition and under-occupation or overcrowding.***

An assessment of the size of property needed will be completed using the Council's Bedroom Standard, or any equivalent adopted standard in its Allocation Scheme, to determine if 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 Allocation Scheme. Friends, lodgers and sub-tenants living in the property are excluded.

If the property is under-occupied, in most cases an alternative property that better meets the tenant's needs, will be offered (and even where the tenant would prefer to stay). The tenant may also be entitled to incentives and other support as set out or referred to in the Allocation Scheme. Moving to a smaller property may make the rent more affordable.

If there is overcrowding, and a transfer application has not yet been completed, advice will be given about making a transfer application, applying for a mutual exchange and about any other options. A further flexible tenancy at the same address will be granted so long as the household is not statutorily overcrowded.

- **5.2.5 *Other housing needs including needs relating to a disability***

If the property is no longer meeting the needs of the tenant and his/her household, the review will consider what options might be available to better meet those needs. For tenants with medical or mobility needs, a transfer application may be needed, or it may be appropriate to consider adaptations to the tenant's current home.

If the property has been adapted for a person with a disability and there is now no such person living at the property, the review will consider what the housing needs of the tenant's household are. As with under-occupation, in most cases an alternative property that better meets the current needs will be offered (and even where the tenant would prefer to stay). A transfer application will also be completed.

- **5.2.6 *The way the tenancy has been conducted.***

Any breaches of the tenancy agreement and agreements to remedy those breaches will be considered.

### **5.3 Review outcomes**

Following the review, the following main outcomes are possible:

- tenant offered a new five year flexible tenancy of the same property . This will apply to most tenants;
- tenant offered a new two year flexible tenancy of the same property. This will apply where there have been breaches of tenancy, rent

arrears, or where the review has identified a need to move but no suitable property is available immediately;

- tenant offered a new five year flexible tenancy of an alternative property. This will apply where the home no longer meets the needs of the tenant, and an alternative home can be identified before the tenancy expires;
- tenancy ended. This will likely apply where the tenant refuses (without good reason) to engage in the review, where the tenant is no longer resident at the property, where the tenant's resources exceed the financial limits set in our Allocation Scheme or where there have been serious and persistent breaches of the tenancy agreement and legal action is already being pursued against the tenant.

#### **5.4 Circumstances where a new flexible tenancy may not be offered of the same property.**

A further tenancy in the same property is unlikely to be offered if any of the following circumstances apply:

- (a) where there is under-occupation;
- (b) where there are adaptations that the resident household no longer requires and which could be used by another household;

In most of such cases the tenant will not be offered a new flexible tenancy of the same property and will be sent a direct offer for a flexible/secure tenancy of an alternative property of the size and type suited to their needs. Any direct offer will take into account the tenant's area preference, support networks and any other relevant considerations. However, although the Council will endeavour to meet the tenant's preferences, this cannot be guaranteed due to the limited availability of accommodation.

- (c) where there is statutory overcrowding.

However, if suitable alternative accommodation is not available, we may offer a two year fixed term flexible tenancy of the same property.

#### **5.5 *Policy flexibility in cases of under-occupation***

This policy with regard to under-occupation will not be applied inflexibly and it may be appropriate to offer a new flexible tenancy of the same property where:

- the impact of moving could have a serious impact on the health of the tenant or another household member (supporting information will be assessed by the Council's independent medical advisor);
- the property has been adapted for a disabled person, who remains a household member, and it would be costly and disruptive to reinstate those adaptations at another property;

- the household is likely not to be under-occupying at or near the end of the existing flexible tenancy as assessed in accordance with the Allocation Scheme.

## **5.6 Circumstances where no new flexible tenancy may be offered of any property:**

A further tenancy is unlikely to be offered of any property if any of the following circumstances apply:

### **5.6.1 *There has been a serious and persistent breach of the tenancy agreement.***

This will be at a level where the Council would deem it reasonable to seek possession and for the court to make any form of possession order. [Some examples of persistent breaches include: a failure to keep to a rent arrears agreement for a sustained period or causing persistent nuisance (despite repeated warnings in accordance with Basildon Council's Anti-Social Behaviour Policy)].

When deciding whether or not to offer a new tenancy of any property, regard will be had to the views of any support agency working with the tenant and their family, the vulnerability of household members and the impact on other household members of not offering any new tenancy.

The impact that offering another tenancy may have on neighbours and the community will also be considered where the breach of the tenancy agreement relates to nuisance or anti-social behaviour.

### **5.6.2 *The tenant or member of their household has been convicted of serious housing-related anti-social behaviour in another court, and the offence meets the criteria to trigger any mandatory right of possession.***

At the time of producing this policy the Government is proposing to create a mandatory Right of Possession in some circumstances. This may therefore become the subject of future legislation and guidance. This paragraph of the Policy will only be implemented if any such guidance is published and the necessary changes to legislation are made.

### **5.6.3 *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 they fail or refuse to do so without good reason, and where their non-participation is unrelated to any vulnerability.

## **6. Ending a flexible tenancy**

Where the 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 of the same or another property will be made by a Principal Officer or Manager (or more senior officer) in the Housing Department following the review.

A Notice of Non-Renewal will be served at least six months before the tenancy is due to end setting out:

- that the Council does not propose to grant a further tenancy on expiry of the term;
- the reasons why no further tenancy is being granted;
- that the tenant has a right to request a review of the Council's proposal, how they can do this and the timescales for seeking that review (see section 6).

A Notice Requiring 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 and recover possession.

## **7. Appeals about flexible tenancies**

### **7.1 Right to complain about the length of the flexible tenancy or about decisions not to offer a new flexible tenancy of the same or another property.**

All offers to grant a tenancy (including offers to grant another tenancy of the same property on the coming to an end of an existing flexible tenancy) will be made in writing. Offer letters will:

- a) specify the type and length of tenancy that is being offered; and
- b) where a flexible tenancy is offered, inform the tenant(s)/ potential tenant(s) that they have the right to request a review of the Council's decision about the length of tenancy to be offered.

The right to review is limited to a review on the basis that the length of tenancy offered is not in accordance with the Council's policy as set out in this Tenancy Policy. The request must be made within 21 days of the tenant(s)/prospective tenant(s) receiving the offer letter, or such longer period as the Council may allow in writing.

The review can be requested in writing or by email through the Council's website but the administrative arrangements for requesting and conducting a review will be set out in the offer letter. The request for a review needs to set out why the tenant(s)/prospective tenant(s) considers the tenancy length offered does not accord with this Tenancy Policy. The Flexible Tenancies (Review Procedures) Regulations 2012 set out the procedure to be followed and include a right for the tenant(s)/potential tenant(s) to request an oral hearing.

In some other cases a 'face to face' meeting with the tenant or prospective tenant may be needed in order to consider the review (for example where the full reasons for the

review cannot be established in writing). In these cases tenants will be able to bring a representative.

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

If a request for a review is duly made, a Council officer (who was not involved in and is senior to the officer who made the original decision) will:

- (a) undertake a review to establish whether the decision about the length of tenancy to be offered has been made in accordance with this Tenancy Policy; and
- (b) notify the tenant(s)/prospective tenant(s) in writing of the decision on the review and, if the decision is to confirm the original decision, the reasons for the decision.

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, by bringing a claim for Judicial Review in the High Court or obtaining independent housing advice.

## **8. End of tenancy advice and assistance for tenants**

The type of advice and assistance given will depend on whether a further flexible tenancy is being offered, or if one is being granted of another property

### **8.1 Further flexible tenancy but of a different property**

If a further flexible, or secure, tenancy is being offered of another property, a direct offer will be made. General advice will be given on moving and what needs to be done to prepare for a move. More detailed advice and assistance can also be given to suit individual circumstances particularly where tenants are vulnerable.

### **8.2 Where no further flexible tenancy has been offered**

Where the Council decides not to offer another tenancy on the coming to an end of an existing flexible tenancy, advice and assistance on finding alternative accommodation will, if it is required, be given including about accessing private rented housing in Basildon, Low Cost Home Ownership and Right to Buy. Where there are children in the household, Essex County Council Children's Services may also need to be involved.

## **9. Succession**

### **9.1 About succession**

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

For secure tenancies (including flexible tenancies) that started after 1<sup>st</sup> April 2012 there is a statutory right to one succession, but only for spouses and civil partners (and people who were living with the tenant as if they were their spouse or civil partner). When the tenant dies, such a person succeeds to the tenancy (i.e. takes it over) provided that they were occupying the property as their only or principal home at the time of the tenant’s death, and the deceased tenant did not himself succeed to the tenancy. Where there is more than one person qualified to succeed and they cannot agree who is to succeed, this selection is made by the Council.

The Council can choose to grant additional succession rights in tenancy agreements to:

- (a) allow spouses and civil partners (and people who were living with the tenant as if they were their spouse or civil partner) to succeed the deceased tenant even if there has already been one or more succession; and/or
- (b) allow others (e.g. family members or resident carers) to succeed the deceased tenant if the deceased tenant did not have a spouse or civil partner (or a person with whom they lived as if they were husband and wife or civil partners) who was occupying the property as their only or principal home at the time of the tenant’s death.

Further detailed information on statutory succession rights for secure tenants (including flexible tenancies) and how the Council may use its discretion can be found in the Allocation Scheme.

It is a regulatory requirement that registered providers of social housing, including the Council, must set out their policy on granting discretionary succession rights, taking into account the needs of vulnerable household members. The Council’s policy on granting discretionary succession rights is as follows.

## **9.2 Eligibility for discretionary succession**

To be eligible to succeed to a tenancy under the Council’s discretion the applicant must:

- be a family member (defined as: people living together as husband and wife or as civil partners, parents, grandparents, children, grandchildren and brothers and sisters) who have lived with the deceased tenant continuously as their only or principal home for a minimum period of three years prior to their death and do not own another property.

If there has been a previous succession (i.e. if the deceased tenant took over from a previous tenant) nobody can take over the tenancy (in other words, the Council does not allow another succession).



### **9.3 Where more than one person is eligible**

Where there is more than one person living in the household who is eligible for a discretionary succession, the Council expects the household to decide who should take over the tenancy. Provided that person meets the criteria outlined above, the Council will generally respect this choice. However, the final decision regarding which household member should benefit from the discretionary succession rests with the Council.

### **9.4 The property of which a tenancy will be granted**

Discretionary successors will only be able to remain in the original home if it is of the size needed, and this will be assessed under the council's Bedroom Standard, or any equivalent standard set out in the Allocation Scheme. If it is not, a direct offer will be made to the successor of a different property. Although the Council will endeavour to offer accommodation in one of the successor's preferred areas of choice, this cannot be guaranteed due to the limited availability of accommodation.

### **9.5 Length of flexible tenancy**

Where there is a succession to a flexible tenancy, the tenancy will last until the end of the fixed term. The offer of a new flexible tenancy will then be considered in line with this Tenancy Policy.

### **9.6 Advice and assistance to household members of deceased tenants**

Where a Council tenant dies and there is no right of succession but the property continues to be occupied by people who were living with the deceased tenant, the Council will review the household's circumstances and housing options with them to determine, in accordance with the Allocation Scheme, whether one or more of them should be offered a tenancy of either the property they are occupying or one or more different properties and, if so, what length of tenancy should be offered and what rent should be charged.

A tenancy will not be offered to someone who does not qualify for social housing in Basildon under the Allocation Scheme.

Where the Council decides to seek possession of a property following the tenant's death and the occupant(s) are worried about losing their home, advice and assistance on finding alternative accommodation will be provided by the Council's Housing Assessments Team. The advice and assistance will be the same as that which would be given to any resident who approaches the Council for advice and assistance because they are worried about losing their home and will include advice on how to obtain private rented accommodation.

## **10. Approach to tenancy management**

### **10.1 Tenant information and advice**

The Council is committed to ensuring that tenants are well informed about their rights, responsibilities and how to access services. Information is available through a range of media including a comprehensive sign up interview at the start of a tenancy, a tenant's handbook, newsletters and the Council's website.

The Housing Options Service provides advice and assistance to tenants who need to move home quickly if there is an urgent need (for example if their home becomes unsafe).

## **10.2 Interventions to sustain tenancy**

Every effort is made to support tenants to sustain their tenancies. Only where a tenant has failed to engage with support services, or the service is unable provide a solution, will possession action be taken.

Support for new tenants includes:

- Information at the outset on what is expected of a tenant throughout their tenancy.  
(For flexible tenancies this will include information on when a new tenancy will be offered.)
- Housing benefit advice
- Tenancy/floating support
- 

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:

- a debt counselling and welfare benefit advice service.
- close working with Housing Benefit to ensure claims are assessed and paid promptly;
- a wide range of methods for payment of service and rent charges;
- low-cost home contents insurance;
- an arrangement with Basildon Citizens' Advice Bureau whom tenants can contact and be provided with a range of independent advice and support.

## **10.3 Support for vulnerable tenants**

Tenants can become vulnerable at any point in their tenancy for a number of reasons such as illness, age or financial difficulties. In order to identify tenants who are at risk, the Council will, as far as reasonably possible, carry out the following:

- have frontline staff trained to signpost vulnerable residents to statutory and voluntary agencies that can offer assistance;
- provide training for contractors so that they can identify vulnerable tenants and refer concerns to the tenancy management team;

- provide a major adaptations scheme so that disabled tenants can remain in their own home
- make referrals to appropriate agencies for tenants with social or mental health issues to help them to live independently.

#### **10.4 Preventing unnecessary evictions**

Ending a tenancy and seeking possession for a breach of tenancy conditions is a serious matter for the Council, and is generally only considered after support has been offered but has been declined or failed. Much of the support detailed above is designed to provide support at an early stage and prevent eviction. Even where possession is being pursued, support will continue to be offered and tenants will be clearly advised of the processes being followed, the seriousness of the situation and their legal rights.

#### **10.5 Preventing and tackling tenancy fraud**

The Council takes tenancy fraud seriously, not only because it can result in the unlawful occupation of council housing, but also because it deprives legitimate applicants (in many cases, families) of a home and results in them staying in costly temporary accommodation. There are four main types of tenancy fraud:

- obtaining a tenancy by deception
- sub-letting the whole of the property
- fraudulent succession or assignment claims
- not using the property as the only or principal home.

To prevent tenancies being obtained falsely, photo ID may be required as part of the housing application process.

#### **10.6 Identifying tenancy fraud**

The Council encourages reporting from members of the public including neighbours. The Council provides a free phone number where all types of fraud can be reported anonymously. Appropriate cases of housing fraud are publicised to raise awareness of fraud and to act as a deterrent.

We also seek to identify tenancy fraud through:

- carrying out a programme of unannounced tenancy checks;  
*[These checks are carried out to identify subletting of properties. Basildon Council will conduct an ID check of the tenants living at the property, as well as a check of the names and dates of birth of everyone else living there.]*
- data matching exercises matching the tenancy details held with information from a wide variety of external sources;

- investigations by our specialist fraud team which undertakes complex housing fraud investigations and assists in improving processes, and providing training.

Where social housing fraud is identified, a variety of approaches may be taken depending on the particular circumstances of the case but these can include possession action, other enforcement action or criminal proceedings.

## **11. Exceptional circumstances**

There may be limited exceptional circumstances when the Council's Commissioning Director for People and Place, or duly delegated officers, may exercise discretion in relation to the implementation of this Tenancy Policy. This will be done 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 Basildon.

## **12. Reviewing the Tenancy Policy**

### **12.1 Regular Review**

This Tenancy Policy will be subject to periodic review and any changes will be agreed by the Cabinet Member for Housing. The Tenancy Policy will be reviewed every three years or sooner if the Tenancy Strategy is amended, or circumstances change significantly.

### **12.2 Equality Impact**

Before implementing this Tenancy Policy, the Council has considered its duties under the Equality Act 2010. We have not identified any vulnerable groups who we think will be subject to adverse impacts at this stage.

We anticipate that the Tenancy Policy will have a positive impact on some groups, through enabling them to access housing more quickly although the full impact of the Tenancy Policy on different groups of people with protected characteristics under the Act will not be known until the first tenancies are reviewed.

Once tenancy reviews commence there will be careful monitoring in place of all tenancies reviewed, to ascertain whether any groups are suffering disadvantage.

This monitoring will also allow us to identify who is at greatest risk of tenancy failure, and to tailor our services to meet identified needs.

## **13. Letting people know about this Tenancy Policy**

### **13.1 Flexible tenants**

The Council will ensure that all tenants receive written information about the type and terms of their tenancy, and that tenancy sign-ups will always include an opportunity to ask questions about the tenancy.

### **13.2 Where a new flexible tenancy will not be offered**

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 Council will remind tenants of their specific tenancy obligations by communicating this information in face to face meetings, in correspondence with the tenant and also in publications referred to in the tenancy agreement.

### **13.3 Secure tenants**

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.

The Council will offer opportunities to discuss housing needs and aspirations to existing secure tenants who want to consider moving, or who are finding their current homes difficult to manage, especially those who are under-occupying their homes.

### **13.4 Advice and support agencies**

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