

City of York Housing Services Tenancy Policy (May 2013)

Legislation and regulation:

- Tenant Services Authority Regulatory Standards
- Localism Act 2011
- Housing Act 1996
- Housing Act 1985
- City of York Council Tenancy and Accommodation Agreements
- Housing Tenant Handbook and Fact Sheets.
- City of York Council Tenancy Strategy

Authorisation:

This policy was adopted by the Housing & Community Safety Management Team / Cabinet Member for Health, Housing and Adult Social Services on ???.

Introduction

This is City of York Council's policy for tenants and people who want to become tenants of the housing that it owns.

It sets out the approach to tenancy management, tenancy support and the types of tenancy on offer.

The policy takes account of the City of York Council Tenancy Strategy which can be found at www.york.gov.uk/housing .

Our aim is to help all of our tenants sustain their tenancies through effective tenancy management, providing advice and helping tenants access the support that they need.

Tenants of Tees Valley Housing properties managed by City of York Council should refer to the Tees Valley Housing tenancy policy.

Tenancy types

The general rule is that local authorities can only grant secure (lifetime) tenancies unless they decide to operate Introductory Tenancies. City of York Council decided to issue Introductory Tenancies in 2003.

The Localism Act 2011 gave local authorities the ability to offer fixed term tenancies known as Flexible tenancies. City of York Council wants to help sustain communities and believes that one of the ways to do this is to grant lifetime tenancies wherever possible.

Introductory tenancies (IT)

We grant these to tenants who do not already have a secure or assured tenancy with City of York Council or other social housing provider. An IT is a probationary tenancy that lasts 12 months unless it is extended to 18 months.

ITs have fewer benefits than secure tenancies including:

- Guaranteed repossession for serious tenancy breaches as long as the correct procedure has been followed
- No Right To Buy your home
- No Right To exchange your home with another tenant

Secure tenancies (ST)

We give secure tenancies to tenants who are existing secure or assured tenants with City of York Council or other social housing provider. Introductory tenants will also become secure tenants if they successfully complete their time on an IT.

Secure tenants have full tenancy rights as set out in the tenancy agreement and Tenants Information Handbook and Housing Fact Sheets.

Demoted tenancies (DT)

A secure tenancy may be downgraded to a DT by a court in cases of severe anti-social behaviour. The DT has fewer rights and is broadly the same as an IT. It will revert to a secure tenancy again after 12 months if it is not ended. City of York Council may apply to have a secure tenancy downgraded to an IT as an alternative to asking the court for possession of a secure tenancy.

Non secure tenancies (NST)

These are granted in specific or exceptional circumstances only. They have very limited security of tenure and rights. They normally apply to

short term tenancies such as accommodation provided to families to whom the Council has duties under homelessness or other legislation.

Families accommodated for this reason will be issued with a temporary accommodation agreement.

Gypsy and Travellers sites

Tenants housed on these sites will be issued with a Travellers Accommodation Agreement.

Flexible tenancies (FT)

These are secure tenancies granted for a fixed term of at least 5 years although they can be granted for as few as 2 years in exceptional circumstances.

FTs will not be used unless there are exceptional or specific circumstances that require this.

Individual tenancies

Decisions on whether to grant an FT on an individual tenancy will be taken by the Cabinet Member for Health, Housing and Adult Social Services in consultation with the Assistant Director for Housing and Community Safety.

A flexible tenancy will only be granted on individual tenancies where:

- An introductory tenancy or non secure tenancy is not appropriate
- The property has been extensively adapted and it is foreseeable that the need for the adaptation will no longer exist in future
- Other exceptional circumstances relating to the future status of the tenant e.g. limited leave to remain in the country with a duty to house in the interim.

Housing Schemes or initiatives

Decisions on whether fixed term tenancies will be taken by the Cabinet Member for Health, Housing and Adult Social Services in consultation with the Assistant Director for Housing and Community Safety granted for:

- Specific initiatives within the stock of housing e.g. the prevention of future under occupation.
- Accommodation provided for specific purposes e.g. time limited support linked to specific accommodation
- Other defined reasons where an introductory or full secure tenancy would not be appropriate.

In all cases Flexible tenants will be advised at least 6 months in advance of when their tenancy will end. Other appropriate accommodation will normally be offered to the existing tenant before the end of the Flexible tenancy following review, unless there have been serious evidenced breaches of the tenancy agreement or other specific circumstances that make a further offer unsuitable.

Please refer to the detailed policy and procedure for flexible tenancies for information on the rights of flexible tenancy and the rules around granting and ending flexible tenancies.

Minors and tenancies

A person under the age of 18 can not hold a legal tenancy. In these circumstances we will seek to grant the tenancy to an adult such as a member of the minor's family or if this is not possible, to another adult, for example a social worker, who will hold the legal tenancy on trust for the minor's benefit until they reach 18. Alternatively an equitable tenancy could be granted which is an agreement to grant a tenancy when the minor reaches 18.

Looked after children

City of York Council also grants a small number of tenancies to other departments of the Council. These will be used to help looked after children work towards being able to live independently.

Ending a tenancy

The Council can not end a tenancy and recover possession without an order of the court.

Most tenancies and non secure tenancies will continue indefinitely unless formally ended by the courts or the tenant or by the agreement of both.

Tenants should end tenancies and non secure tenancies by providing notice in writing.

Where this is not done the tenant may be liable for rent until the tenancy or licence is formally ended by a court order.

For weekly tenancies a minimum of 4 weeks notice is required. This does not apply where the tenant is mutually exchanging homes or transferring to another social rented home through North Yorkshire Home Swap.

A tenant should always seek advice from Housing Services, CAB, solicitor or other appropriate agency before they leave a tenancy, especially if they are a joint tenant and are leaving the other tenant(s) in occupation. This is because they still remain a tenant although they are not living there. This can cause problems if re-applying for social housing elsewhere.

Tenancies with no security

The Council may bring a tenancy to an end if a tenant has lost their security of tenure, for example because they no longer occupy the property as their own or principle home or they have died and there are no further rights to succession. A notice to quit will be served. The Council will then take proceedings through the courts to end the tenancy where needed.

Tenancy surrender

If the Council and the tenant agree to bring the tenancy to an end, this may be done by surrender. For a surrender to take effect the tenant must offer the tenancy to the Council and the Council must agree to accept it. Offer and acceptance must be in writing and can be proved by a Deed of Surrender which is a legal document.

Court order

All tenancies issued by City of York Council can be ended by a court order. This will require the Council to serve the correct notice for the tenancy advising the tenant that possession proceedings are to be taken. The discretion of the court to grant possession differs with each type of tenancy.

Property abandonment

If it is clear, following thorough investigation, that a tenant has left a property without telling us or giving notice, the Council will serve a notice to quit that ends the contractual tenancy. Once the notice has expired (the date on the notice has passed) the Council will then take proceedings through the courts to end the tenancy where needed.

Succession

For secure tenants whose tenancy began before April 2012:

It may be possible for members of a tenants family to take over a tenancy when the tenant dies. This is called a succession. The law says that the following people have a right to inherit a tenancy:

- A husband, wife or person living with the tenant as their partner at the time of death.
- Another family member or relative including parents, grandparents, children, grandchildren, brothers, sisters, aunts, uncles, nephews and nieces. It also includes adopted children and step children, and people who are relatives by marriage. Any relatives wanting to inherit the tenancy must have lived with the tenant for at least twelve months before the death of the original tenant. You potential successor will be asked to prove this.

It is our policy to allow two successions of tenancy but a second succession may not be possible if your home:-

- Has been specially designed or adapted for the elderly or disabled and would normally be given to people with special needs.
- Is larger than necessary - and has more bedrooms than are needed. In these cases alternative accommodation will be offered

For tenants whose tenancy began April 2012 or after:

Tenants granted a secure tenancy after 1st April 2012 only have one statutory succession and this is to the spouse or partner only.

A second succession may be granted if the Council agrees to extend succession rights and sets this out in its tenancy agreement. This can be extended to other family members or resident carers. City of York

Council has not formally changed its tenancy with regard to succession rights and this means that the same succession rights that applied prior to April 2012 still apply. This will be reviewed shortly in consultation with customers.

Rents

City of York Council charges social rents on all of its tenancies. Rent levels are determined as per the 'target rent' guidelines issued by the government each year. This will result in social rents between housing providers in an area converging (becoming broadly similar for each property type) over time.

Mutual exchanges

Tenants of City of York Council (where eligible) can exchange their home with other Council or registered providers of housing.

Tenants can do this using the Homeswapper website which is free for City of York Council tenants to use.

www.homeswapper.co.uk

Mutual exchanges are based on legislation and are a right for tenants who are eligible. City of York Council operates a flexible exchange system where tenants in proven hardship may be allowed to move even though there are reasons which would normally stop them doing so, for example rent arrears. This will only happen after certain specified conditions are met.

Tenants wanting to exchange should discuss this with their Housing Estate Manager.

Tenancy agreements, responsibilities and sign up

City of York Council will ensure that tenants are fully informed about their tenancy rights and obligations at the pre-tenancy sign up stage and beyond. The Council provides a DVD outlining responsibilities to all new tenants.

Tenants in temporary accommodation are expected to attend specific information sessions about being a responsible tenant before they are made an offer of a property.

We will conduct a sign up for a new home with all new tenants to ensure that they fully understand their rights and responsibilities and the conditions of the tenancy agreement on offer. We will also discuss what the tenant can expect from the Council and opportunities to get involved in shaping the Housing Services.

At sign up financial issues will be discussed as well as the support needs of the tenant if these are not already being met.

Joint tenancies

We normally grant joint tenancies to two people living together as partners. However, in exceptional circumstances we may give a joint tenancy to up to four people regardless of gender or marital status, including any relevant members(s) of the family.

Tenancy reviews

Introductory Tenancies

Introductory tenancies will be reviewed at 6 weeks, 3 months and 9 months as a minimum and where extended to 18 months at 12, 15 and 18 months

Secure tenancies

The Council will visit many tenants on an ad hoc basis in the normal course of its work but we will also have a planned programme of customer care visits where the Council will aim to visit every home at least once every 3 years.

These visits will cover a range of purposes which broadly summarised include:

- Ensuring that the terms of the tenancy are being complied with and that the property is being looked after
- Identifying any support need and any changes in the households circumstances
- Signposting the tenant to any other services as appropriate.

Visits will be arranged in advance unless there are exceptional circumstances and tenants should allow access and be present. Appointments can be re-arranged if not convenient.

Other tenancies

All other tenants will receive visits as needed depending on their support needs or the type of tenancy granted.

Anti-social behaviour and Tenancy Fraud

City of York Council will not tolerate its homes being used for illegal or immoral purposes or in a fraudulent manner.

Housing Services work with other departments, organisations and tenants to investigate and act on breaches of the tenancy agreement and fraud such as illegal sub letting of its homes.

All available legislation, investigatory powers and information will be used. The Council will seek to prosecute in all cases where it is reasonable to do so and seek possession of its homes where this is appropriate.

It may also be appropriate to provide support as this can help reduce the incidence of anti-social behaviour and help tenants comply with the terms of their tenancy agreement.

Support

Regardless of tenancy the Council will help tenancy sustainment by ensuring that tenants are aware of and accessing appropriate support at all times.

Staff will assist customers with accessing support where this is requested and will signpost tenants as a minimum.

The Council provides some support directly but also works with many partners to provide appropriate support and accommodation. The Council also offers a range of resettlement services for those who wish to work towards accessing mainstream housing.

Most tenancy related support will be accessed through the Single Access Point referral system. This process determines the customers

specific needs and ensures that the services that they access are appropriate.

Money, debt and employment advice is also available for Council tenants through the Money and Employment Workers as well as at a range of local advice sessions provided by the CAB.

A range of services and housing is also available to support independent living for older people including:

- Sheltered accommodation and sheltered accommodation with extra care
- Warden Call emergency service, services to support you to live at home and home care services
- Garden maintenance and decoration schemes for older people and people with disabilities

Tenants can ask the Housing Estate Manager or Support Worker for details or visit www.york.gov.uk/housing for more details.

Complaints and Appeals

Making a Complaint

If you are not happy with our services you can make a complaint. You can make your complaint directly to the staff involved or contact the complaints team if you prefer. You can also fill in a 'Have Your Say' leaflet which will be sent to the Complaints Manager. If you need any help in making your complaint staff will do their best to assist you. Your complaint can be dealt with at a number of different stages.

For more details ask a member of staff or visit http://www.york.gov.uk/info/200167/customer_services/42/comments_comments_complaints_and_suggestions/2

You can also contact your councillor or MP about your problem.

Residents Associations and York Federation of Residents and Community Associations may also be able to help.

If you are unhappy about how Housing Services have dealt with your complaint then you can contact the Housing Ombudsman.

For more information on any of the please contact Customer Services on 01904 551550 or visit www.york.gov.uk

How to Appeal

If you disagree with our decisions on housing policy you have the right of appeal to a panel of Councillors. If you are unhappy with our decisions and want to appeal you need to write to the Assistant Director of Housing & Public Protection. Speak to a member of staff for more details.

Equal Opportunities

Housing Services is committed to providing a high quality, customer centred service which meets all legal requirements. Housing Services will:

- Treat individuals fairly, with dignity and respect
- Understand the rights of individuals and the communities in which they live
- Make sure that the opportunities provided are open to everyone
- Make sure that there is a safe environment for customers of the service, and for those providing the service

Each member of staff is responsible for delivering the service fairly, consistently and openly, as well as keeping within Housing Services policies and procedures, and the law. Any agencies or organisations that work with Housing Services will also be expected to make sure that they do not discriminate or act unfairly against any section of the community. These principals will be adopted in all the work of Housing Services.

Review

This policy will be reviewed every 2 years as a minimum or sooner should the need arise due to changes in legislation, policy or procedures.

Contact details

Communities & Neighbourhoods
City of York Council
Housing Services
West Offices
Station Rise
York
YO1 6GA

Tel: 01904 551550
Fax: 01904 551190