

Flexible Tenure Policy

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Ratified By:	Leadership Team
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Name of Originator / Author:	Julie Harvey, Neighbourhood Manager
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CONTENTS

1.	Introduction	3
2.	Aims and Objectives	3
3.	The First Year of the Fixed Term Tenancy	4
4.	What should take place at the review	4
5.	Under what circumstances will a further fixed term tenancy at the same home be granted?	6
6.	What are the circumstances whereby an offer of alternative accommodation may be made?	6
7.	What circumstances will lead to the tenancy being terminated and a further tenancy not being offered	7
8.	Ending the Fixed Term Tenancy at the end of the Fixed Term	7
9.	Ending the Tenancy during the Fixed Term	9
10.	Appeal against a decision to end the tenancy following service of a break notice	10
11.	Review of the Policy	11
12.	Associated documents	12

Flexible Tenure Policy (Fixed Term Tenancies)

1. Introduction

- 1.1. The Localism Act 2011 introduced new flexibilities for registered providers (RP's) to offer new customers Fixed Term Tenancies (FTT).
- 1.2. Stafford & Rural Homes (SARH) Tenancy Policy details the circumstances where a customer will be signed to a FTT.
- 1.3. The use of flexible tenure will therefore enable SARH to be flexible in meeting the needs of customers whilst ensuring best use of SARH stock.
- 1.4. SARH will support customers to respond to changes in their circumstances and ensure that their housing meets their needs. To facilitate this it is important to meet with customers at various points during the term of the tenancy to assess future needs and requirements. SARH will facilitate this approach through the use of FTT's where-by tenancies may run for a period of 6 years with a review during or before 8 months into the tenancy and towards the end of the term. At the review stage SARH will assess with the customer, their future housing need either sustaining the existing tenancy at the current home or possibly supporting a move to another one.
- 1.5. Where there have been serious tenancy breaches the tenancy will be brought to an end using the relevant grounds in the Housing Act 1985 & 1988

2. Aims and objectives

- 2.1. The aims of this policy are as follows;
 - 2.1.1. To outline under what circumstances the tenancy will be terminated during the first year and during the last year of the tenancy period.
 - 2.1.2. To outline the criteria for the review of the FTT and when to do this review.
 - 2.1.3. To outline what support will be given to customers where the FTT will not be renewed.
 - 2.1.4. To outline an appeals process.

2.2. The objectives of this policy are as follows

2.2.1. Stafford and Rural Homes will let homes to customers who are compatible with the:

- Purpose and type of the accommodation
- Sustainability of the community and
- Efficient and appropriate use of housing stock.

3. The First Year of the Fixed Term Tenancy

3.1. SARH want to ensure that all customers on FTT's are supported to sustain their tenancy and therefore aim to undertake a minimum of 2 contacts during the first year of the tenancy. The first within 2-8 weeks of the tenancy start date, with the following contact/s dependant on the individual support needs but no longer than 8 months into the tenancy.

3.2. The key aim of the contact will be for SARH to establish a positive relationship with the customer, provide any advice on services which the customer may require, and to gather any changes in circumstances. These contacts represent important events in the relationship with the customer and make it possible to gather information to assess the level of support that is required to help them to sustain the tenancy.

3.3. The contact at 8 months or prior will include a formal review and a decision will be made at that point as to whether the tenancy will continue for the remaining 5 year fixed term period, after the initial 12 months, or be brought to an end by the serving of a break notice. If there have been no problems with the tenancy and the circumstances within the household have not substantially changed the tenancy will continue for a total of 6 years from the commencement of the tenancy.

3.4. Customers can invite family members, carers or anyone they wish to be involved to support them at reviews should they wish to do so.

3.5. Any alleged breaches of the tenancy during the first year will be investigated in accordance with SARH policies and procedures. Warnings or legal action will be issued if evidence is gathered which demonstrates the tenancy conditions have been breached.

3.6. Where, during the first 12 months of the tenancy, a customer fails to respond to warnings and continue to breach their tenancy, or there has been a serious breach of tenancy, consideration will be given to serving the break notice which will bring the tenancy to an end. The break notice must be served in the month prior to and ending on the 1st anniversary of the commencement date (if for example the commencement date was 10 April the notice could be served on any day between and including 10 March to 10 April) . Authorisation to serve the break notice will be given by the Neighbourhood Manager or Head of Housing Management. Examples of where service of a break notice will be considered are:

- 3.6.1. Rent arrears where the customer has failed to engage with support offered and failed to adhere to regular payment plans
- 3.6.2. Excessive noise, including loud music, musical instruments etc
- 3.6.3. Offensive drunk and disorderly behaviour in the local area
- 3.6.4. Using, or threatening to use, violence to anyone in the local area or towards any SARH employee , agent or contractor
- 3.6.5. Causing nuisance, annoyance, harassment or alarm to neighbours
- 3.6.6. Criminal activity including using or selling drugs, prostitution, theft or burglary
- 3.6.7. Allowing the property and or garden to get into poor condition, including deliberate damage, vandalism or graffiti
- 3.6.8. Failure to give access to SARH employees or contractors to undertake routine inspections including inspections to check conditions within your home, gas safety inspections, undertake routine repairs and tenancy review visits
- 3.6.9. Any other breach of tenancy

3.7. Where a break notice is issued customers will have the right to an appeal (please see section 4).

4. Appeal against a decision to end the tenancy following service of a break notice

4.1. The customer may appeal against a decision to serve a break notice in month 11.

4.2. Customers will be clearly advised on how they can make an appeal and any timescales. Customers will be given the opportunity to provide further information that SARH may be unaware of and the reasons why they believe that the decision taken was unfair.

4.3. Appeals should be made within 7 calendar days of service of the break notice.

4.4. All requests will be dealt with in the same way. Appeals will be conducted by someone more senior and not involved in the original decision. They will either decide to overturn or support the original decision. The customer will be notified in writing of the outcome of the appeal within 10 working days of the request being received. The reply will include the decision made, the reasons for the decision and the facts that have been taken into account.

5. What should take place at the review during the last year of FTT?

5.1. A customer on a FTT will be required to take part in a further formal review of the tenancy at least 8 months before the 6 year anniversary.

5.2. SARH will review the customer's circumstances and those of anyone else within the household in order to decide whether or not to grant another FTT. Reviews will also provide the opportunity to look at issues affecting wellbeing, such as employment, health and other vulnerabilities which may have developed during the tenancy period and signpost to support if required.

5.3. The review should take place in the customer's home and on a date and time agreed with the customer.

5.4. If the customer fails to keep a review appointment in their home this will be determined as a failed review and legal notice to end the tenancy can be served.

5.5. The review will establish the following:

5.5.1. Does the size of the property still meets the needs of the current household?

5.5.2. Is the type of the property still suitable for the customer and anyone living with them in line with the allocations policy?

5.5.3. Has the tenancy has been managed effectively since it started e.g. the rent has been paid on time, the property is kept in an acceptable condition and there have been no tenancy breaches?

5.5.4. Are there any significant change in financial circumstances including income and or savings which would enable the customer to afford to buy or rent privately?

6. Under what circumstances will a further FTT, at the same home, be granted?

6.1. A further FTT will be granted at the existing home when;

6.1.1. Customers have kept the review appointment

6.1.2. Family circumstances including financial, and make up are broadly the same as at the start of tenancy. That they can afford to pay the rent and there have been no serious issues with conduct during the period of the 6 year fixed term tenancy.

6.1.3. The property is over-crowded by one bedroom and the family have indicated that they wish to remain in their current home

6.1.4. The property is under- occupied by one bedroom, the family have indicated that they wish to remain in their current home and a financial statement demonstrates that the payment of under-occupation

charges will not cause financial hardship

6.1.5. The family have indicated that they wish to remain at the home

7. What are the circumstances whereby an offer of alternative accommodation may be made?

7.1. If one or more of the following situations arise at the tenancy review the Neighbourhood Officer will submit a report to the Housing Choices Manager requesting that alternative accommodation be sought:

7.1.1. Where the family are under occupying the home by two bedrooms or more and this is not likely to change in the next 5 years (by reference to the CBL bedroom matching standard)

7.1.2. Where the family are likely to under occupy by one or more bedrooms in the next year (by reference to the CBL matching standard) and under-occupation charges will cause financial hardship

7.1.3. Where the family are over-crowded by more than one bedroom

7.1.4. Where the current accommodation is adapted for disabled use and the adaptations are no longer needed by anyone in the household.

7.2. Customers will be given priority in line with the Allocation Policy and customers will be supported by Housing Choices Team until suitable alternative accommodation is available.

8. What circumstances will lead to the tenancy being terminated and a further tenancy not being offered at the end of the 6 years?

8.1. SARH will consider bringing the tenancy to an end under one or more of the circumstances below:

8.1.1. There has been a deliberate attempt to mislead SARH by giving fraudulent information.

8.1.2. There has been proven tenancy fraud committed at the address during the term of the tenancy.

8.1.3. Where tenancy conditions have been broken and there is a valid ground for possession, and the customer has failed to respond to

warnings and continues to breach their tenancy conditions (examples can be seen in section 4 of this policy). This includes non payment of rent, antisocial behaviour and neighbour nuisance occurring.

8.1.4. Notice of Seeking Possession has been served or possession proceedings have been started based on any ground for possession or obtained an injunction against the customer e.g. based on anti social behaviour.

8.1.5. The customer does not want to accept the terms of the new FTT.

8.1.6. The financial circumstances within the household would enable the customer to afford to buy or rent privately.

8.1.7. The customer has been made an offer of suitable alternative accommodation for reasons in section 7 but have refused to move or engage in the transfer process.

8.2. Authorisation to end the tenancy will be sought from the Neighbourhood Manager or Head of Housing Management. Customers will be advised of the outcome of the review verbally and if the tenancy is to be brought to an end this will be followed up in writing.

9. Ending the FTT at the end of the Fixed Term.

9.1. SARH are required under s21 (1B) Housing Act 1988 to issue a notice which will be referred to as a “minded-to “ notice giving 6 months’ notice of our intention not to grant a further FTT. At the same time SARH are required under s21(1B) and by the Homes and Community Agency(HCA) Tenancy Standard to give information about how to obtain help and advice e.g. refer to local CAB, housing advice centre, solicitor or homeless persons unit.

9.2. The 6 months’ notice will set out the reasons why a tenancy will not be renewed (as set out in para 8) and offer an internal appeal on the decision not to renew the tenancy.

9.3. The customer will be given 21 days to request an appeal from receiving the “Minded-To” notice. SARH will offer an oral hearing to be conducted by someone more senior and not involved in the original decision. The appeal

will be carried out and the decision communicated in writing before any possession proceedings are issued.

9.4. Once the minded-to notice has been served and any appeal concluded (if the appeal decision confirms the decision not to offer a further tenancy), SARH will then serve an s21 notice. Customers will not be offered an opportunity to request an appeal in relation to the decision to serve the s21 notice as this duplicate the appeal offered in relation to the “minded-to “notice.

9.5. The s21 notice must give a minimum of 2 months’ notice and end on the last day of the 6 year fixed term. If it is served within the last 2 months of the fixed term, then it must give 2 months’ notice and end on the last day of a period of the tenancy even if that is later than the fixed term expiry date.

9.6. The tenancy continues as a statutory periodic assured shorthold tenancy once the fixed term has ended if the tenant has not moved out.

9.7. Once the s21 notice has expired, accelerated possession proceedings should be begun without delay.

10. Ending the tenancy during the fixed term

10.1. Customers ending a tenancy

10.1.1. Customers can bring their tenancy to an end before the end of the fixed term by surrendering the tenancy by giving at least four weeks’ notice in writing and ending on a Sunday. Joint tenants must both sign any notice to terminate which is treated as a break notice served by the tenant(s) under para 10.1.2 of the 6 year fixed term tenancy agreement.

10.2. Abandonment

10.2.1. If SARH believe that the customer has abandoned the property during the fixed term a full investigation will be undertaken in line with SARH abandonment procedure. A S146 forfeiture notice will be served on the property where the investigation

concludes the property has been abandoned. This will give 4 weeks' notice advising that SARH will take back possession of the property. (Notices to quit do not have any relevance to fixed term tenancies and are not valid).

10.3. **SARH ending the tenancy**

- 10.3.1. Before the end of the first 12 months of the tenancy, SARH can serve a break notice. Para 10.1.2 of the 6 year fixed term tenancy sets out the detail of the break clause which means it can only be served in the month prior to and ending on the first anniversary of the commencement date. This means a break notice cannot be served e.g. in month 9 or in month 13.
- 10.3.2. An internal appeal of the decision to serve the break notice will be offered – see section 4.
- 10.3.3. Once a valid break notice has expired, SARH can then serve an s21 notice in the usual form giving 2 months' notice.
- 10.3.4. Other than exercising the break clause at the end of the first 12 months, SARH can at any time serve an NSP based on any of the grounds for possession available (excluding ground 6 (demolition) and ground 9 (suitable alternative accommodation)) and then start possession proceedings.

11. **Review of the Policy**

- 11.1. This policy will be reviewed every two years in conjunction with the Tenancy Policy.

12. **Associated documents**

- 12.1. SARH 6 year fixed term tenancy
- 12.2. SARH Tenancy policy
- 12.3. SARH Choice based lettings policy

- 12.4. Homes and Community Agency Tenancy Standard
- 12.5. Localism Act 2011
- 12.6. Housing Act 1985 & 1988
- 12.7. CIH The practical implications of tenure reform