



**Haverling**  
LONDON BOROUGH

# **Housing Services'** **TENANCY POLICY**

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## Document Control

### Document details

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### Version history

Version	Change	Date	Dissemination

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Version	Change	Date	Approving body
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# TENANCY POLICY

## PART 1 - INTRODUCTION

### Scope of Policy

- 1.1. This policy includes the following matters:
- the grant of introductory and secure Council tenancies;
  - the monitoring and review of introductory tenancies;
  - the review of flexible tenancies;
  - mutual exchanges and
  - legal assignment and succession rights

### Regulatory and Legal Context

- 1.1. This policy sets out the Council's approach to the issuing and re-issuing of Council Tenancies; and the management of those tenancies. The Council supports the principle of flexible tenancies, (except in sheltered housing schemes and in supported housing which meets long term care needs). Our affordable housing resources are a precious asset for which demand far exceeds supply.
- 1.2. This policy also explains the legal assignment and succession rights afforded to Introductory and Secure tenants, and to provide guidance on the principles when officers consider applications to assign or succeed to introductory or secure tenancies within the Council's discretion.
- 1.3. A review of the Council's succession policy was completed following the removal of statutory succession rights for non spouse/civil partner successors in the Localism Act 2011 and proposed changes to succession rights under the Housing and Planning Act 2016 (when implemented).
- 1.4. As a result of the Localism Act 2011, Havering chose to use the discretion to offer secure flexible tenancies for new social housing tenants rather than secure lifetime tenancies from April 2012. The Council viewed this as an opportunity to meet the Borough's housing needs in a more flexible way.
- 1.5. The intention behind this policy is to balance our aim of providing stability for households who are in need, in particular, for vulnerable households, against flexibility in the way that the Council manages our housing stock. Our aim is to ensure that we make the best and most suitable use of the limited lettings which become available each year.
- 1.6. Regulatory reform, legal changes and new Government initiatives have led to fundamental change in the way that tenancies are granted and administered. The Localism Act 2011 defined a standard for how local authorities deliver services to residents. From April 2012 the Regulatory Framework for Social Housing in England and Wales sets out a range of required outcomes in the Tenancy Standard.
- 1.7. The Tenancy Standard sets out a specific expectation for all Local Authorities to have and publish a Tenancy Policy. The Act also makes it easier for local communities to challenge the way local public services are delivered.
- 1.8. Havering Council is committed to ensuring that services delivered to residents are tailored to the needs of local communities.
- 1.9. The key features of the Localism Act 2011 and the regulatory framework are:

- Giving tenants a wide range of opportunities to influence and be involved in the formulation of their landlord's housing related policies and strategic priorities;
- Co-regulation of housing in conjunction with engaged residents and local politicians;
- Making the best use of available housing;
- Providing tenants wishing to move with access to clear and relevant advice about their housing options.

1.10 Local authorities have a general duty to provide housing and tenancy services in a fair and equitable way to all and to ensure that residents are involved in the management of their housing. They are required to maintain the homes and the environment.

1.11 This policy deals specifically with the management of Havering's own council tenancies.

1.12 In formulating this policy, the Council has had regard to the need to safeguard and promote the welfare of children; and this Policy accordingly includes arrangements for that purpose.

1.13 This policy updates and replaces the Council's Tenancy Management Policy 2014.

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## PART 2 - GRANT OF COUNCIL TENANCIES

### Housing Allocation

- 2.1 This policy relates to the allocation of social (Council) housing under **Part VI Housing Act 1996** in accordance with the Council's published Allocation Policy.
- 2.2 Persons to whom the Council may owe a duty to secure accommodation under the homelessness provisions of Part VII Housing Act 1996 or Homelessness Reduction Act 2017 will be granted non-secure tenancies or licences where accommodated in a Council Hostel and are not covered by this policy.

### Types of Tenancy

- 2.3 A brief description of the types of tenancy is set out below:

COUNCIL TENANTS		
Type of Tenancy	Relevant legislation	Brief description
<b>Licences</b>	Common law Protection from Eviction Act 1977	<p>Licences may be granted in limited circumstances (e.g. service licences).</p> <p>Licences may be granted in exceptional circumstances, for example to:</p> <ul style="list-style-type: none"> <li>• Care leavers; and</li> <li>• People under 18 years of age</li> </ul> <p>Licensees reaching the age of 18 may then be offered an introductory tenancy as a new tenant. The licence period will not count towards the introductory tenancy trial period.</p>
<b>Non-secure tenancies</b>	Common law Protection from Eviction Act 1977 Schedule 1 Housing Act 1985 s.89 Housing Act 1980	<p>Certain types of tenancy cannot be secure tenancies. These are specified in Schedule 1 of the Housing Act 1985 and include tenancies granted to homeless persons and asylum seekers, and properties let to the Council for use as temporary housing accommodation under Sch.1, paragraph 6 of the Housing Act 1985</p>
<b>Service licences</b>	Common Law Protection from Eviction Act 1977 Schedule 1 Housing Act 1985 Ground 7 Sch 2 Housing Act 1985	<p>Service licences or non-secure tenancies may be granted to persons in consideration of their employment (such as residential caretakers). Such persons will usually be service licensees or service tenants and will not have security of tenure.</p> <p>Service licences may also occasionally be used for very short term arrangements. Legal Advice should be sought when considering a licence.</p>
<b>Introductory tenancies</b>	Housing Act 1996 Housing Act 1985	<p>Introductory tenancies are subject to a 12 month 'probationary' or trial period during which the tenancy may be terminated on a mandatory ground in accordance with this policy. The trial period may also be extended by 6 months.</p> <p>All new Council tenancies are introductory tenancies.</p>

<b>Weekly periodic (lifetime) secure tenancies</b>	Housing Act 1985	<p>These are traditional Council tenancies, often known as lifetime tenancies, which last from week to week until terminated in accordance with specified Grounds for Possession (Schedule 2 Housing Act 1985).</p> <p>Most Council tenancies granted before April 2014 are weekly tenancies.</p>
<b>Flexible tenancies</b>	Localism Act 2011 Housing Act 1985 – Schedule 2	<p>Flexible tenancies are a form of fixed term secure tenancy with all the main rights and protections applicable to weekly periodic secure tenancies.</p> <p>At least 6 months before the end of the tenancy, the Council may serve notice not to renew the tenancy on a mandatory ground for possession. Further details can be found here: <a href="http://www.legislation.gov.uk/ukpga/1985/68/schedule/2">http://www.legislation.gov.uk/ukpga/1985/68/schedule/2</a></p> <p>Most Council tenancies granted from April 2014 are flexible tenancies of 3 or 5 years.</p>

For information, the following tenancies are likely to be used across the Borough:

<b>PRIVATE SECTOR / REGISTERED PROVIDERS &amp; HOUSING ASSOCIATION TENANCIES</b>		
<b>Assured tenancies</b>	<b>Housing Act 1988</b>	These are similar to secure tenancies, and are mostly used by private sector social landlords. Possession may only be sought upon the Grounds in Sch.2 of the Act
<b>Assured shorthold tenancies</b>	<b>Housing Act 1988</b>	<p>These are private sector tenancies, usually granted for 6 or 12 months. The landlord has an additional mandatory right to possession at the end of the tenancy following service of a valid s.21 Notice Requiring Possession.</p> <p>Where assured shorthold or starter tenants transfer from a Registered Provider into a council property, they should be offered an introductory tenancy as a new tenant. Any period during which the tenant was a starter tenant will count towards the introductory period of the new tenancy.</p>
<b>Starter tenancies</b>	<b>Housing Act 1988</b>	These are a form of private sector assured shorthold tenancy which will become a full assured tenancy after a specified period. They are similar to introductory tenancies.
<b>Protected or Regulated tenancies (and restricted contracts)</b>	<b>Rent Act 1977</b>	These tenancies are generally private sector tenancies granted prior to 1989. Possession may only be sought upon specified 'Cases' or grounds, and the rent may be registered with the Rent Officer.

## JOINT TENANCIES

- 2.4 An applicant can make an application for a joint tenancy with their spouse or civil partner (this includes cohabiting partners in a long-term committed relationship who have resided together for at least 12 months) provided that they are eligible and meet the qualification criteria set out in the Council's Allocation Scheme.
- 2.5 The Council does not permit joint applications or grant joint tenancies with other persons except in exceptional circumstances (e.g. where a tenant is financially dependent upon a close family member or their eligibility for housing is dependent on another close family member), although close adult relatives and other household members may be included in the tenancy agreement as authorised occupants.

## WHICH TYPE OF NEW TENANCY TO OFFER?

### Introductory tenancy to be offered to New Council Tenants

- 2.6 Havering Council has chosen to operate the Introductory Tenancy Scheme in the Housing Act 1996. Under s.124 Housing Act 1996, in general, all new tenancies granted by the Council will **automatically** be introductory tenancies.
- 2.7 All **new Council Tenants** (see definition in 2.8 below) should be offered an **introductory tenancy** for the trial period of 1 year, with the potential to extend the trial period by a further six months. The tenancy will be an introductory tenancy during the trial period. 2.8 **New Council Tenants** are those persons who will have received an offer of an allocation of housing under Part VI Housing 1996 pursuant to the Council's Allocation Policy but are not already secure tenants of a Council or assured tenants of a Registered Provider.

## AFTER THE INTRODUCTORY TENANCY:

### Flexible Tenancies

- 2.9 The Council's policy is that, in general, all new Council tenants should receive a flexible tenancy following the completion of an introductory tenancy provided they continue to meet the eligibility, qualification and housing needs criterion prescribed within the Council's Allocation Policy.
- 2.10 Tenants have no statutory right of review or appeal against the type of tenancy offered.

## Weekly periodic (lifetime) tenancies

2.11 It is the Council's policy **not** to grant any new weekly periodic (lifetime) secure tenancies **save in the special cases** set out in the table below.

<b>SPECIAL CASES</b>	
<b>Category</b>	<b>Description</b>
<b>Transferring Havering Council Tenants</b>	Where existing secure weekly periodic tenants of the Council transfer from one property to another within the Council's housing stock (e.g. up-sizing or down-sizing etc.), <b>they should be offered a 'replacement' tenancy with the same legal status and duration as their original tenancy.</b>
<b>Transferring Tenants From Another Council</b>	Where existing weekly periodic tenants of another Council transfer to a Havering Council property they should be <b>offered a 'replacement' tenancy with the same legal status and duration as their original tenancy.</b>
<b>Transferring Secure or Assured Tenants From a Private Registered Provider</b>	Where secure or assured (non-shorthold) tenants of a Registered Provider transfer to a Havering Council property they should be <b>offered a 'replacement' secure tenancy with a similar degree of security and tenure as their original tenancy.</b> This excludes registered provider tenants who transfer to a Council property in the instance of a mutual exchange with a council tenant.
<b>Tenants affected by the Council's Housing Regeneration Programme</b>	Tenants who are required to move as a result of the Council's Housing Regeneration schemes will be offered a tenancy with the same legal status and duration as their original tenancy. <b>Where the tenant held a secure lifetime tenancy at their previous property, they will be offered a secure lifetime tenancy at their new property.</b>
<b>Sheltered, Extra-Care &amp; Age restricted Accommodation</b>	Weekly periodic (lifetime) secure tenancies should be offered to tenants who are moving to sheltered or extra-care housing or other age-restricted accommodation. If this is a new tenancy, then this will be subject to the introductory period.  However, where a tenant moves from a sheltered or extra care housing scheme into general needs accommodation as a result of a change in their housing need, they will be offered a secure flexible tenancy.
<b>Victims of Domestic Abuse</b>	Applicants who are offered an allocation of housing on the grounds of domestic abuse are entitled to a periodic (lifetime) secure tenancy <b>where they have lost their lifetime tenancy after they have fled their home.</b> This includes existing tenants applying to move, and applies to all lifetime tenants of social housing, whether the person being re-housed and offered a new tenancy has a tenancy agreement with a local authority or a Registered Provider. Applicants who have not previously held a secure tenancy will commence as Introductory tenancies. This complies with the Secure Tenancies (Victims of Domestic Abuse) Act 2018.

*Note: all special cases must be signed off by the Director of Housing and the Lead Member for Housing.*



## Settling-in Visit

2.12 The allocated Tenancy Officer should ensure they make a home visit to the new tenant within 3 weeks of the start of their new tenancy. A Home Visit form should be completed and actioned as necessary. In the case of care-leavers, a home visit should take place within 7 days.

## Notice of Flexible Tenancy

2.13 The offer of an introductory tenancy **MUST** (where a flexible tenancy is to be granted) specify if it will be followed by a flexible tenancy pursuant to s.137A Housing Act 1996, along with the proposed length of the tenancy and the other express terms. Notice of the right of review of the length of tenancy should also be given (see Flexible Tenancies section below).

## LENGTH OF TERM OF FLEXIBLE TENANCIES

### Flexible Tenancies

- 2.14 A flexible tenancy must be granted for a minimum term of 2 years.
- 2.15 However, the Government has issued statutory Directions to the Regulator of Social Housing which set out that a flexible tenancy ought to be granted for a minimum term of 5 years, except in 'exceptional circumstances' when they can be granted for a minimum of 2 years.

### Length of Term to be offered for flexible tenancies

2.15 The Table below sets out the length of flexible or fixed term tenancies to be offered:

LENGTH OF TERM OF FLEXIBLE TENANCIES	
Category	Description
<b>GENERAL RULE</b>	<p>In almost all cases, new Council Tenants should be offered a tenancy for a term of <b>5 years</b>. All new tenancies will be granted as an introductory tenancy, and will automatically become a secure flexible tenancy after the introductory trial period, unless terminated by notice of proceedings for possession.</p> <p>The Council considers that this strikes a reasonable and proportionate balance between providing security of tenure for residents, while maintaining flexibility in the future application of its housing stock for local persons in need, including its duties under the Children Acts and social services legislation.</p> <p>A shorter fixed term of 3 years may be appropriate where there are genuine concerns that the tenant will not be able to properly manage their tenancy and keep to the tenancy terms. This includes circumstances where the tenancy has been demoted. As a general rule a 3 year term may often be appropriate.</p>

## SHORTER OR LONGER TERMS

In exceptional cases, the Council may wish to offer a shorter tenancy. The Officer should consider the appropriate term to be offered in all cases taking into account the tenant's personal circumstances:

### FIXED TERMS OF LESS THAN 5 YEARS

<b>Rent arrears (transferring flexible or tenants)</b>	<p>Tenancies of 3 years should be offered to tenants who have rent arrears or a history of non-payment or late payment of rent. This is in addition to the successful completion of a one year introductory tenancy.</p> <p>Where an agreement is in place for repayment of rent arrears, and such agreement has been maintained for a continuous period of at least 3 months, then it may be appropriate for a 5 year tenancy to be granted. Officers should seek advice from the Income Manager.</p> <p>This also applies to applicants with former tenant arrears owed to Havering Council.</p>
<b>Breaches of tenancy / Notice of Seeking Possession and court orders</b>	<p>Where applicants have a history of previous breaches of tenancy (e.g. for anti-social behaviour), then the Council will usually offer a shorter fixed term of 3 years.</p> <p>The Council will offer a shorter term of 3years to tenants against whom a court possession order or injunction has been granted or where a NOSP remains valid.</p>
<b>Tenants with limited leave to remain or restricted immigration status</b>	<p>Tenants who do not have indefinite leave to remain in the United Kingdom but only a limited leave to remain should be offered a 3year term to keep their eligibility for social housing under review.</p>
<b>Request of tenant</b>	<p>The tenant may request a shorter term (perhaps they plan to move abroad or purchase a property) or there may be other exceptional circumstances (e.g. where a tenant may need to transfer to supported or extra care accommodation or has a limited life expectancy).</p>
<b>Condition of the property</b>	<p>Where the tenant has failed to maintain their property to a good standard or failed to provide access to officers to allow them to conduct a Health and Safety/Fire risk assessment, on review, the Council may reduce the term of the tenancy to a three year tenancy.</p>

### Length of Term for Vulnerable Tenants

2.17 While the Council recognises that some vulnerable tenants may find the tenancy renewal process unsettling, the Council nevertheless considers that a 5 year fixed term will be appropriate tenancy length in almost every case unless there are highly exceptional circumstances. Shorter terms, such as in the examples listed in the table above should be considered to enable the Council to regularly review the suitability of the housing to the tenant's needs and the tenant's ability to sustain their tenancy and perform the tenancy obligations.

## RIGHT OF REVIEW OF LENGTH OF TERM

### Notification of Length of Term and Right of Review

- 2.18 When a prospective tenant is offered a flexible tenancy (whether the tenancy starts as an introductory tenancy or otherwise), the Housing Advice and Demand Service will advise the Tenant of the proposed length of the flexible tenancy offered and advise the Tenant of their right to seek a review of that decision within 21 days of receipt of the offer, and to ask for an oral hearing.
- 2.19 There is no right of review against the decision to offer a flexible tenancy, only in relation to the length of term offered.

### Extensions of time for review

- 2.20 The Council may allow a longer period for a review request. Such an extension must be requested and confirmed in writing. As a general rule, the Council will only accept a review request that has been made out of time in the most exceptional of circumstances. Any requests must be received within one month of the expiry of the date for requesting a review and must be supported by evidence
- 2.21 Officers should ensure that requests for extensions of time are considered carefully, and reasons provided if refused.

## REVIEW PROCEDURE

<b>CONDUCTING THE REVIEW AS TO LENGTH OF TERM (Flexible Tenancies)</b>	
<b>Procedure</b>	<b>Description</b>
<b>Reviewable decisions</b>	The decision as to the length of flexible tenancy to be offered after the introductory period or as a new flexible (or fixed term tenancy)
<b>Time to request Review</b>	21 days of receipt of the offer of tenancy, or notice of the length of tenancy term, if later.
<b>Requirements of review request</b>	An application for a review must be made in writing and must include: <ul style="list-style-type: none"> <li>(a) the tenant's name and address;</li> <li>(b) a description of the original decision in respect of which the review is sought including the date on which the decision was made;</li> <li>(c) if the review is requested pursuant to s107B of the Act, a statement of the reasons why, in the tenant's opinion, the length of the tenancy does not accord with a policy of the Council as to the length of the terms of the flexible tenancies it grants;</li> <li>(d) in any other case, a statement of the grounds on which the review is sought;</li> <li>(e) a statement to the effect that the tenant does, or does not, require the review to be conducted by way of an oral hearing;</li> <li>(f) a statement to the effect that the tenant does, or does not, agree to receive communications relating to the review by email, and if the former, the email address to which such communications should be sent.</li> </ul>
<b>Request for oral hearing</b>	Where the tenant has requested an oral hearing within the time limit, then the Council must conduct a hearing. In other cases, the Council must deal with the review on paper.

<p><b>Communication with the tenant</b></p>	<p>It is important that correspondence sent to the tenant in connection with the review by the Council is taken as having been received by the applicant at the time when it is:</p> <ul style="list-style-type: none"> <li>(a) given to the tenant in person;</li> <li>(b) sent by the Council by first class post to the tenant's address</li> <li>(c) delivered by hand to the tenant's address.</li> <li>(d) sent to the tenant's email address.</li> </ul> <p>It is the tenant's responsibility to make sure that they keep the Council updated with their correct email and postal address and to notify the Council of any changes.</p>
<p><b>Review without a hearing/Request for a paper review</b></p>	<p>The Council must send a written notice to the tenant stating that the tenant may make written representations in support of their application, This must not be made any earlier than 5 days after the date that the applicant receives notice of the length of flexible tenancy to be offered to the tenant. In making a decision on the review the person conducting the review must take into account any representations received from the tenant.</p> <p>The review must be conducted by a person appointed for that purpose by the Council who may be an officer or employee of the Council, of greater seniority than the person who made the original decision who was not involved in the making of the original decision.</p>
<p><b>Notice of Oral hearing</b></p>	<p>The Council must send a written notice to the applicant stating the day on which, and the time and place at which it is proposed that the oral hearing is to take place, not less than 5 days on which the notice is received by the applicant. Any representation in support of the tenant's applications should be received by the Council no later than 48 hours in advance of the hearing.</p> <p>If at any time before the day on which the hearing is due to take place the applicant so requests, the landlord may postpone the hearing to a later date, not less than 5 days after receipt of notice of the new hearing date.</p>
<p><b>Procedure at Hearing</b></p>	<p>The hearing must be conducted by a person appointed for that purpose by the landlord, who may be an officer or employee of the landlord, of greater seniority than the person who made the original decision, and who was not involved in the making of the original decision.</p> <p>The hearing must be conducted with the minimum amount of formality and in accordance with any directions given by the person conducting it.</p> <p>At the hearing the applicant may:</p> <ul style="list-style-type: none"> <li>a) make oral or written representations relevant to the decision to be made on the review;</li> <li>b) be accompanied or represented by another person appointed by the applicant for that purpose (whether that person is professionally qualified or not);</li> <li>c) call persons to give evidence on any matter relevant to the decision to be made on the review; and</li> <li>d) put questions to any person who gives evidence at the hearing.</li> </ul> <p>The person who made the original decision may attend the hearing and</p>

	<p>may do any of the things the applicant may do.</p> <p>A person appointed as a representative has the same rights and obligations as the applicant (or, as the case may be, the person who made the original decision) for the purposes of the conduct of the hearing.</p> <p>The decision on the review must be made by the person who conducted the hearing.</p>
<b>Failure to attend hearing</b>	<p>If the applicant fails to attend the hearing, the person conducting it may, having regard to all the circumstances (including any explanation offered for the absence), proceed with the hearing or give such directions with a view to the further conduct of the review as that person may think appropriate.</p>
<b>Adjournment of hearing</b>	<p>The hearing may be adjourned by the person conducting it (on the application of the applicant or otherwise).</p> <p>Where the hearing is adjourned for more than one day, the person conducting it must specify a date on which the hearing is to be resumed by sending a notice in writing to that effect to the applicant and any other person whose attendance is required at the resumed hearing.</p>

## ADDING OR REMOVING A JOINT TENANT / CHANGE OF NAME

2.22 The Council recognises that occasionally, tenants may wish to add or remove a spouse or partner as a joint tenant as a result of a change in relationship.

### Adding a Joint Tenant (Sole to Joint)

2.23 Where both tenants agree, then officers should check whether it is lawfully possible for the joint tenancy to be assigned in accordance with s.91 Housing Act 1985. In this case the tenant should be referred to a solicitor or advice centre to complete a Deed of Assignment from sole to joint name. Where the tenant has a statutory right of assignment, then it is not necessary to sign a new joint tenancy agreement: the new tenant details should be updated on the Council's records.

2.24 Where assignment is not possible or practical in respect of a periodic tenancy, the Council will, if a request is made by the tenant, and subject to the conditions below, agree to grant a new replacement joint tenancy to the occupying tenant and their new spouse or partner with the same status and tenure as the tenant's previous sole tenancy. The conditions are:

- a) There are no outstanding breaches of covenant. In this regard, any rent arrears must be repaid in full prior to any agreement for the grant of a replacement joint tenancy or the grant of such replacement tenancy;
- b) The property is not under-occupied;
- c) The property has not been specially adapted for a person who is no longer occupying the property;
- d) The proposed new joint tenant has occupied the Property as his/her only or principal home for a continuous period of 12 months as the partner or spouse of the sole tenant in occupation.

- e) The proposed new joint tenant meets the eligibility criteria as well as the qualification criteria applicable to transferring tenants under the Council's Allocation Policy;
- f) The sole tenant has served a Notice to Quit to terminate the sole periodic tenancy.

2.25 Where such a request is made in respect of a flexible tenancy, then any change agreed will take effect subject to the tenancy review procedure on the grant of any new tenancy and not during the current tenancy. For flexible tenancies, the Council will consider granting a replacement tenancy in exceptional circumstances.

2.26 A new joint tenancy agreement should be signed upon the expiry of the tenant's Notice to Quit to terminate the old periodic tenancy.

2.27 The grant of a replacement tenancy will be treated as a succession to be consistent with the statutory right of assignment under s.91 Housing Act 1985 which also operates as a succession.

2.28 Officers should ensure therefore that reference to succession rights in the new tenancy agreement (if any) are deleted prior to signature.

#### **Removing A Joint Tenant (Joint To Sole)**

2.29 Where both tenants agree, then officers should check whether it is lawfully possible for the joint tenancy to be assigned in accordance with s.91 Housing Act 1985. In this case the joint tenants should be referred to a solicitor or advice centre to complete a Deed of Assignment from joint to sole name.

2.30 Where an assignment cannot be agreed between the joint tenants, then those tenants who are married or in a civil partnership have rights to apply to the Family Court to transfer the tenancy, and in these circumstances, tenants should be advised to seek legal advice as to their options to apply for a transfer of tenancy. Legal Aid may be available for this.

2.31 The following paragraphs apply where one of joint tenants has permanently ceased to occupy the property as their only or principal home and the two joint tenants are unable or unwilling to agree an assignment of the tenancy into the sole name of the tenant who remains in occupation. This may often be in circumstances of a relationship breakdown where the parties are no longer in communication or where the absent joint tenant's whereabouts are unknown.

2.32 The Council will, upon request from the remaining tenant in occupation, and subject to the conditions below, agree to grant a new replacement tenancy to the occupying tenant with the same status and tenure as their previous joint tenancy.

2.33 The conditions, in relation to a periodic tenancy, are that:

- a) It is not possible or reasonably pragmatic for the tenancy to be transferred by assignment or Court order; and
- b) There are no outstanding breaches of covenant. In this regard, any rent arrears must be repaid in full prior to any agreement for the grant of a replacement sole tenancy or the grant of such replacement tenancy;
- c) The tenant in occupation is not under-occupying the property;
- d) The property has not been specially adapted for a person who is no longer occupying the property;

- e) The other joint tenant has been absent from the property for a **continuous period of 2 years** and there is no evidence that he or she intends to return to occupy the property as his/her only or main home within a reasonable time (unless the other joint tenant consents to the transfer of the tenancy).
- f) Prior to agreement to grant a new replacement tenancy, the Council has written to the non-occupying joint tenant at his/her last known address, advising of the occupying tenant's application, and no objection to the application has been received within 14 days of such notification or such objection fails to provide reasonable grounds for retaining their joint tenancy.
- g) The tenant has served a valid Notice to Quit upon the Council to terminate the joint periodic tenancy.

2.34 Where such a request is made in respect of a flexible tenancy, then any change agreed will take effect subject to the tenancy review procedure on the grant of any new tenancy and not during the current tenancy. For flexible tenancies, the Council will consider granting a replacement tenancy in exceptional circumstances.

2.35 The grant of a replacement tenancy will be treated as a succession to be consistent with the statutory right of assignment under s.91 Housing Act 1985 which also operates as a succession.

2.36 Officers should ensure therefore that reference to succession rights in the new tenancy agreement (if any) are deleted prior to signature.

#### Change of name of tenant

2.37 Tenants may wish to have their name amended on the tenancy agreement as a result of a change of name. Often this will be because of marriage, divorce or for religious or family reasons.

2.38 Officers should ensure that evidence of change of name is produced. This may include such documents as a new passport or driving licence in the new name, or a certificate of marriage, civil partnership or divorce/dissolution.

2.39 Where a tenant has changed their name by Deed Poll, then, in order to prevent fraud, evidence that the Deed has been enrolled in the High Court will need to be produced to enable the Council to change the tenancy name. This is a straightforward procedure subject to a prescribed fee (currently £36).

2.40 Upon approval to amendment of the tenancy into the new name, no new tenancy agreement should to be signed and the tenancy term continues as before, with the Council's records updated.

## TENANCY TERMS

### Form of Tenancy Agreement

2.41 The Council has adopted a combined standard form of tenancy agreement suitable for all types of introductory and secure tenancy which may be varied from time to time as set out below.

### Variations of tenancy terms and conditions

2.42 The terms and conditions of weekly periodic secure tenancies may be varied under the procedure set out in s.103 Housing Act 1985.

- 2.43 The terms and conditions of introductory tenancies and flexible tenancies may only be varied in accordance with the express tenancy terms.

#### Variation of rent or service charges

- 2.44 Rent or service charges may be varied in accordance with s.102 Housing Act 1985.

#### Variation in services provided

- 2.45 Services provided may be discontinued or changed upon 28 days' notice to tenants.

#### Consultation on matters of housing management

- 2.46 The Council is obliged to consult introductory tenants (s.137 Housing Act 1996) and secure tenants (s.105 Housing Act 1985) who are likely to be affected by a relevant housing management matter.

## TERMINATION OF TENANCIES

### Termination by the tenant

- 2.47 A tenant may end their tenancy at any time by giving the Council **at least four weeks written notice**. There is no particular form of notice required and notice may be given by letter, but it must be clear that the tenant's intention is to end the tenancy.
- 2.48 Failure to give proper notice will leave the tenant responsible for rent and other charges.
- 2.49 In the case of a joint periodic tenancy, either tenant can end the whole tenancy, without the consent of the other. The Council may, in its absolute discretion grant a replacement tenancy to the remaining sole tenant, taking into account all the circumstances of the case.
- 2.50 In respect of flexible tenancies, then 4 weeks' notice must be given in writing by both tenants and in accordance with any tenancy terms.
- 2.51 The Council may, in its discretion, accept a shorter period of notice than 4 weeks. In this case, to ensure certainty, the Council should write to the tenant accepting the short notice.
- 2.52 Tenants will be required to make good any damage and must allow the Council to inspect the property before they leave. In default, the Council will carry out any repairs and may re-charge these to the former tenant.
- 2.53 At the end of the four week notice period, tenants must vacate their home and hand all keys back in accordance with the tenancy agreement and handbook. All rent due must be paid. All family members, occupants and pets must also leave the property at this time. Where unauthorised occupants are left in occupation legal proceedings will commence for vacant possession of the property.

### Termination by the Council

- 2.54 The Council may commence termination of secure tenancies at any time by seeking possession upon any of the statutory grounds set out in the Housing Act 1985 from time to time. This includes the mandatory ground for possession on the grounds of ASB in s.84A Housing Act 1985.



- 2.55 The Council may also terminate a tenancy by Notice to Quit upon the death of the tenant where there is no statutory or contractual successor.
- 2.56 The Council may also terminate a tenancy which ceases to be secure, for example by reason of the tenant condition not being satisfied (e.g. where the tenant has ceased to occupy the property as his only or principal home or has sub-let or parted with occupation of the property).
- 2.57 The Council may also commence the termination of tenancies for the purpose of demolition, redevelopment, repair or improvement or in accordance with the Council's policies and procedures from time to time.

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## PART 3 - Monitoring and Review of Introductory Tenancies

### Introductory Tenancies

- 3.1 All **new** Council tenancies are **automatically** introductory tenancies for the first 12 months of the tenancy (the introductory trial period). During this period, the tenancy does not have the protection as a secure tenancy, and can be terminated on the mandatory ground under s.127 Housing Act 1996 at any time, subject to service of notice, and the tenant's right to review.
- 3.2 Introductory tenancies enable the Council to monitor the introductory trial period of the tenancy to ascertain the suitability of a tenant to proceed to become a secure tenant.
- 3.3 If this introductory trial period is not satisfactorily completed, the Council:
- can extend the introductory trial period by up to 6 months (in extending the introductory period, the Council is not providing any security of tenure);
  - or seek possession upon the mandatory basis at any time before the end of the introductory trial period or extended introductory trial period.
- 3.4 If no action is taken to terminate the tenancy within the introductory trial period or extended introductory trial period, then the tenancy will automatically become a secure tenancy in accordance with the notice given with the offer as to the type of tenancy which would follow the introductory tenancy.

### Information for Tenants

- 3.5 It is very important that new tenants are aware of the implications and responsibilities of having an introductory tenancy. The officer signing up the tenant should fully explain the implications to the new tenant and go through the tenancy agreement, to ensure that they fully understand the agreement. The officer should specifically explain the purpose of the introductory tenancy trial period and the details of type of tenancy that will arise if the tenant satisfactorily completes the introductory trial period.
- 3.6 Officers should also ensure that the procedure and criteria for assessment and extension of and termination of tenancies are also explained to tenants.
- 3.7 The terms and conditions of tenancy for Introductory Tenants are very substantially the same as for Secure Tenants, and tenants are expected to fully or substantially comply with the tenancy terms during the introductory trial period.

### Assessing Suitability

- 3.8 The Council considers it important to carefully assess the suitability of introductory tenants during the introductory trial period. If successful, the tenant will become a secure flexible tenant. This supports **the Council's long-term objective to maintain and improve the quality of life for residents and ensure long-term sustainable and responsible communities.**
- 3.9 The Council therefore requires introductory tenants to **positively demonstrate by their conduct** during the introductory trial period that they should receive the scarce public social resource of a secure tenancy.

### Standard of Conduct Required as Introductory Tenant

- 3.10 This means the Council expects Introductory Tenants to wholly comply with all of the tenancy terms during the introductory trial period.

- 3.11 Officers should bear in mind that a single or several minor breaches of tenancy may well indicate that the tenant is unsuitable to progress to a secure tenancy.
- 3.12 The Council adopts a **careful approach** to the allocation of **secure tenancies, which are a rare and valuable public resource which should be granted only where tenants positively demonstrate by their conduct their suitability as flexible secure tenants by successful completion of the introductory trial period, by meeting the test in clause 3.11 above.**

### On-going Assessment

- 3.13 It is recommended that the allocated Officer keeps in touch with the Tenant(s) during the trial period. Officers should visit or speak to the Tenant(s) regularly during the first 6 months of the introductory trial period.
- 3.14 Any problems or potential problems with compliance with the tenancy terms and conditions must be investigated and brought to the Tenant(s) attention at the earliest opportunity, and should be regularly followed up.
- 3.15 At each stage, the Tenant(s) must be reminded of their obligations to strictly comply with their tenancy agreement and the potential consequences of not doing so.
- 3.16 Particular emphasis should be placed on compliance with the ASB provisions of the tenancy agreement and of the prompt payment of rent in advance.
- 3.17 In considering whether to extend the trial period or terminate the Introductory Tenancy, the Officer should consider the overall conduct of the Tenant and whether they have constructively engaged with the Council and other agencies in respect of their tenancy.
- 3.18 Officers should specifically consider the overall proportionality of the proposed decision, taking into account the principles set out in this Policy, and any Equality Impact Assessment, as well as the requirement to have regard to the need to safeguard and promote the welfare of children.

### Review of Introductory trial period

- 3.19 At least 3 months prior to the end of the introductory trial period, a formal introductory tenancy review should be commenced, and the Tenant(s) offered an interview, if necessary, to review their progress during the introductory trial period to date.

### Decision on Review

- 3.20 If, as a result of monitoring the introductory trial period, the Tenant(s) has failed to **wholly or substantially comply with all of the tenancy terms**, then the Council should either:
- (a) Extend the trial period by 6 months; **or**
  - (b) Terminate the tenancy.
- 3.21 Officers should specifically consider each of the following matters in deciding whether to extend the introductory trial period or to terminate the introductory tenancy:

## REVIEW OF INTRODUCTORY TENANCIES

Event	Action
<b>Rent Arrears</b>	<p>Where a tenant has accrued more than 2 months' rent arrears, this will usually justify immediate termination of the tenancy.</p> <p>In other cases, the Officer should consider:</p> <ul style="list-style-type: none"> <li>(a) Whether the default has been remedied and any arrears cleared;</li> <li>(b) If not, whether the default will be remedied and the arrears cleared before the end of the trial period;</li> <li>(c) Whether the failure to pay rent has occurred once, or on several occasions;</li> <li>(d) The reasons for non-payment;</li> <li>(e) Whether the tenant(s) have kept to past promises of payment;</li> <li>(f) Whether the Tenant(s) are realistically likely or to be able to pay the rent promptly in advance in the future.</li> </ul> <p>Where the tenant(s) has agreed to a repayment plan and has kept to that plan for at least 3 months, then they should be allowed to proceed to a secure tenancy.</p>
<b>Anti-social Behaviour</b>	<p>If the breaches of tenancy relate to ASB, then the Officer should take into account the <b>ASB Policy</b> generally.</p> <p>Serious breaches of tenancy will normally justify immediate termination (see below).</p>
<b>Other serious breach of tenancy</b>	<p>Introductory Tenancies can be terminated at any time by Notice under s.127 Housing Act 1996 in the event of a serious breach of tenancy or repeated other breaches of tenancy.</p> <p>If the breach(es) of tenancy are <b>serious or on-going</b>, then the Council will usually seek to terminate the introductory tenancy prior to the formal review process.</p> <p>The Council will also usually seek to terminate the introductory tenancy where it considers that the tenant is objectively unlikely to be able or willing to <b>comply substantially or fully with all of the terms of the tenancy agreement</b> in future.</p> <p>In cases where the Council takes action to terminate an Introductory Tenancy then the tenant may be considered intentionally homeless in respect of any subsequent application for housing.</p>
<b>Deterioration in condition of property</b>	<p>Officers will carry out an inspection of the property prior to concluding the review to assess the condition of the property and the tenant's compliance with the terms as to keeping the interior of the property in a <b>reasonable condition</b>.</p>

	<p><b>Failure to provide access to carry out such an inspection for the purpose of review on more than 2 fixed appointments will be sufficient reason to terminate or extend the introductory tenancy.</b></p> <p>Where the tenant remedies the defects to a standard acceptable to the Council, or pays the Council's costs of doing so within a reasonable time, then they should be permitted to proceed to a secure tenancy.</p>
<b>Minor breaches of tenancy</b>	<p>Where there are several breaches of tenancy, all of which are minor, or have not been remedied, then the Council considers that this may justify a 6 month extension of an introductory tenancy to continue to monitor the tenant's conduct. A single breach of tenancy which is more than minor may also justify extension of the introductory trial period or termination of the tenancy.</p> <p>In such cases, where an extension to the introductory trial period is made, the tenant(s) should be warned at the earliest opportunity that further breaches of tenancy, however minor, may result in the termination of their tenancy during the extended trial period, before it becomes secure.</p>
<b>Breaches of tenancy remedied</b>	<p>Where the breach(es) of tenancy have been remedied, and the Council considers that the tenant is objectively able and willing to comply with the tenancy agreement in future, then it may be appropriate to allow the tenant to progress to a secure tenancy.</p>

### Monitoring and Review of Extended Introductory Period – second review

- 3.22 Where the introductory trial period has been extended, the allocated officer should continue to monitor the Introductory Tenant(s) compliance with their tenancy agreement for the remainder of the extended introductory trial period.
- 3.23 At least 3 months prior to the end of the extended introductory trial period, a further review should be undertaken as to whether to allow the tenant to progress to a secure flexible tenancy or whether to terminate the tenancy. Officers will be required to consider whether there are **continuing or un-remedied breaches of tenancy**.
- 3.24 In these cases the Council considers that this indicates the tenant to be unsuitable to progress to a secure tenancy. Officers should usually treat this as a failed trial period resulting in termination of the Introductory Tenancy. The decision to terminate the tenancy must be proportionate to the circumstances of the case.

### Notification of Review Decision

- 3.25 The Tenant(s) should then be notified in writing of the outcome of the decision on the review, and whether:
- (a) the tenancy will be terminated; **or**
  - (b) the tenancy will be extended for 6 months and reviewed again (a tenancy may **only** be extended once); **or**

(c) the tenancy will become a secure tenancy at the end of the introductory trial period.

3.26 If the decision is to terminate the tenancy, then Notice of Proceedings for Possession should be served under s.128 Housing Act 1996.

3.27 If the decision is to extend the trial period, then Notice of Extension should be served under s.125A Housing Act 1996, and a further review date fixed to review the tenant's compliance with the tenancy agreement during the extended trial period.

### Notification of Rights of Review

3.28 Tenants must be notified of their right under s.125B Housing Act 1996 to seek a review of a decision to extend the trial period within 14 days of service of the Notice of Extension. This includes the right to request an oral hearing.

3.29 Tenants must be notified of their right under s.129 Housing Act 1996 to seek a review of a decision to terminate an Introductory Tenancy within 14 days of service of the Notice of Proceedings for Possession is served. This includes the right to request an oral hearing.

### Successful completion of Introductory trial period

3.30 On the successful completion of the initial or extended trial period (that is, without a Notice of Proceedings for Possession having been served), the tenant will automatically become a secure tenant (see Part 2) according to the original offer of tenancy.

## CONDUCTING THE REVIEW

CONDUCTING THE INTRODUCTORY TENANCY REVIEW	
Procedure	Description
<b>Reviewable decisions</b>	Either a decision to extend the introductory trial period, or a decision to terminate the Introductory Tenancy
<b>Time to request Review</b>	14 days of notification of service of the Notice to terminate or extend the tenancy and right to review and right to request an oral hearing
<b>Timescale for completing the Review</b>	The review shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which proceedings for the possession may be commenced.
<b>Review officer</b>	The review shall be carried out by a person who was not involved in the decision to apply for an order for possession.  Where the review of a decision made by an officer is also to be made by an officer, that officer shall be someone who is senior to the officer who made the original decision.

<b>Notice of Hearing</b>	The Council must give the tenant notice of the date, time and place of the hearing, at least five days after receipt of the request for a hearing. If the tenant has not been given such notice, the hearing may only proceed with the consent of the tenant or his representative.
<b>No request for oral hearing</b>	<p>If the tenant has not requested an oral hearing the tenant may make representations in writing in connection with the review.</p> <p>The Council must inform the tenant of the date by which their representations must be received, which must be at least 5 days after that notification.</p>
<b>Procedure at oral hearing</b>	<p>The person hearing the review shall determine the procedure</p> <p>A tenant who has requested a hearing has the right to:</p> <p>(a) be heard and to be accompanied and may be represented by another person whether that person is professionally qualified or not  (b) call persons to give evidence;  (c) put questions to any person who gives evidence at the hearing; and  (d) make representations in writing.</p>
<b>Failure to attend hearing</b>	If any person fails to attend the hearing, having been given notice, the person conducting the review may, consider all the circumstances including any explanation offered for the absence. The officer conducting the review may, proceed with the hearing despite the absence of the tenant, or decide on an alternative course of action as appropriate.
<b>Postponing or adjourning the hearing</b>	<p>A tenant may apply to the landlord requesting a postponement of the hearing and the Council may grant or refuse the application as they see fit.</p> <p>A hearing may be adjourned by the person hearing the review at any time during the hearing on the application of the tenant, his representative, or at the motion of the person hearing the review.</p> <p>If a hearing is adjourned part heard and after the adjournment the person or persons hearing the review differ from those at the first hearing, proceedings shall be by way of a complete rehearing of the case.</p> <p>Where more than one person is conducting the review, any hearing may only proceed with the consent of the tenant or his representative if one of the persons who is to determine the review is absent.</p>

## PART 4 - Monitoring & Review of Flexible Tenancies

- 4.1 Flexible secure tenancies may be terminated on mandatory grounds at the end of the tenancy term in accordance with prescribed review procedures. The Council may also offer the tenant a new tenancy either of the same or of a different property.
- 4.2 This section applies to the monitoring and review of flexible secure tenancies (including introductory tenancies which have become flexible secure tenancies) in order to decide whether the tenant should be offered a new flexible secure tenancy at the end of the current tenancy.

### Tenancy Review Process

- 4.3 Prior to the end of a flexible tenancy, the Council **must** review the position and decide whether to offer the tenant a new tenancy. This will involve one or more of the following potential decisions:
- i. a decision to offer the tenant a new flexible or fixed term tenancy of the same property;
  - ii. a decision not to offer the tenant a new flexible or fixed term tenancy of the same property, but to offer the tenant a new flexible or fixed term tenancy of a different property (e.g. where the tenant's housing need has decreased to a smaller property);
  - iii. a decision not to offer a new flexible or fixed term tenancy of the same property, nor of any other property, and to serve Notices to end the tenancy (e.g. where the tenant no longer has a need for social housing or where the tenant has committed a serious breach of tenancy);
  - iv. if the tenant is to be offered a new flexible or fixed term tenancy, the length of tenancy to be offered.
- 4.4 It is essential the principles and procedures set out in this policy are applied properly and in good time. The Housing Act 1985 (as amended) sets out strict timetables for completion of a review and service of statutory notices to end the tenancy.
- 4.5 Although the Council reserves the right to carry out a review at any time prior to the end of a flexible tenancy, in order to be able to terminate the tenancy on the mandatory end-of-tenancy grounds, it must do so more than 6 months prior to the end of the existing tenancy. This is because the Notice of Review Decision must be served at least 6 months prior to the end of the tenancy.
- 4.6 The purpose of the review is to consider whether the Tenant(s) is eligible and suitable to be offered a further flexible secure tenancy or not, and if so, the length of the tenancy to be offered.
- 4.7 The review is also 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.

### Time for Review

- 4.8 A review of a flexible tenancy must be carried out not less than 6 months before the end of the tenancy. **Officers should start the review process 9 months prior to the end of the tenancy.**



## Annual Tenancy Assessments

- 4.9 The Council operates a system of **annual tenancy assessments**, all of which will count towards the eventual decision whether to offer a new tenancy.
- 4.10 Annual assessments will be sent to tenants within 2 months of each anniversary of the start of the flexible tenancy (save for the final year which will form part of the formal tenancy review process).
- 4.11 Annual assessment letters will be sent in a standard form and tenants will be offered the opportunity to request an annual review meeting to discuss the assessment.
- 4.12 The assessment reports will include standard data as to the tenant's performance in complying with the key tenancy terms, and a summary indicator of their performance during that year.

## Initiating the Review Process

- 4.13 The tenancy review process should commence as soon as the tenancy only has **9 months** left to run. The review process should **not** be commenced earlier than this.
- 4.14 The tenancy review process should be initiated by sending the tenant a Tenancy Review Letter and **Application for New Tenancy Form**. The Application for New Tenancy Form will invite the tenant to provide relevant supporting information relevant to the decision whether or not to grant a new tenancy, and whether this should be of the same or a different property.
- 4.15 Officers should follow up the Tenancy Review Letter, within 14 days, with a telephone call or personal visit to the tenant to offer guidance on completing the application and to explain the process.
- 4.16 Where the Application for New Tenancy has not been returned by a tenant within 28 days, then a reminder should be sent requiring the information within a further 7 days and offering an appointment or visit to assist them in completing the form.
- 4.17 If the tenant fails to return the Application for New Tenancy has been received, then the Officer should complete the application with as much information as possible from the tenancy file, and send a copy to the tenant with a final notification letter that the review will now proceed without their input, and giving a final 5 days in which to provide any additional information as their housing need.
- 4.18 The above time periods may be abridged where necessary in order to conclude the review process within the statutory period (6 months before the end of the tenancy).

## Review Criteria

- 4.19 In all cases Officers should consider 5 key categories in deciding whether to grant a new tenancy:
- a) Housing Need and Financial Circumstances;
  - b) Payment of Rent;
  - c) Conduct of tenancy;
  - d) Condition of Property;
  - e) Serious breach of tenancy and court orders.
- 4.20. Officers should consider the annual assessment reports as part of their review.

## REVIEW CRITERIA

Criteria	Description
<b>Housing Need and Financial Circumstances</b>	<p>Tenants must continue to have a genuine housing need. This means that tenants must meet the eligibility and qualification criteria in the Council's Allocation Policy.</p> <p>This includes (but is not limited to) capital and income limits and a prohibition on having another property.</p> <p>Tenants who fail to provide satisfactory evidence of their household means to assess their financial need will not be offered a new tenancy, albeit that the length of the tenancy may be shorter.</p>
<b>Payment of Rent</b>	<p>Where a tenant has accrued more than 2 months' rent arrears, this will usually justify not offering a new tenancy.</p> <p>In other cases, the Officer should consider:</p> <ul style="list-style-type: none"> <li>(a) Whether the default has been remedied and any arrears cleared;</li> <li>(b) If not, whether the default will be remedied and the arrears cleared before the end of the trial period;</li> <li>(c) Whether the failure to pay rent has occurred once, or on several occasions;</li> <li>(d) The reasons for non-payment;</li> <li>(e) Whether the tenant(s) have kept to past promises of payment;</li> <li>(f) Whether the tenant(s) are realistically likely or to be able to pay the rent promptly in advance in the future.</li> </ul> <p>Where the tenant(s) has agreed to a repayment plan and has kept to that plan for at least 3 months, then they should generally be offered a new tenancy.</p>
<b>Conduct of Tenancy</b>	<p>The Council places particular emphasis on tenants being good tenants and neighbours.</p> <p>In order to be eligible for an offer of a new tenancy, the tenant(s) should have <b>fully or substantially complied with the tenancy obligations as to anti-social behaviour</b> and other tenancy obligations (apart from rent).</p> <p>Guidance on the circumstances which would justify a refusal of a housing allocation are set out in the 'Unacceptable Behaviour/un-tenant like behaviour' criteria in the Council's Allocation Policy. If the tenant behaviour falls within this criterion, then a new tenancy should not be offered.</p> <p>Past conduct should generally be given more weight than promises as to future behaviour. Officers should take into account the annual assessment reports as to conduct as well as full details of any incidents from the tenancy file.</p> <p>Where the conduct issue concerns a member of the tenant's household, then the Council may consider an offer of a smaller</p>

	<p>property where the tenant agrees to remove that person from their home.</p> <p>Further guidance on dealing with ASB issues are set out in the Council's ASB Policy.</p>
<b>Condition of Property</b>	<p>Officers will carry out an inspection of the property prior to concluding the review to assess the condition of the property and the tenant's compliance with the tenancy terms as to keeping the interior of the property in <b>good and tenantable condition</b>.</p> <p>Failure to provide access to carry out such an inspection for the purpose of review on more than 2 fixed appointments will be sufficient reason not to offer the tenant a new tenancy.</p>
<b>Serious breach of tenancy and Court Orders</b>	<p>A <b>serious breach of tenancy</b> will usually be sufficient reason not to offer the tenant a new tenancy, unless that breach of tenancy has been remedied and not repeated, and the Officer is satisfied that the tenant is genuinely remorseful for the breach and that no further breaches of tenancy will occur if a new tenancy is granted.</p> <p>If the Council has issued proceedings against the tenant and the Court has made an order against the tenant, whether for possession, injunction or otherwise, this will usually be sufficient reason not to offer the tenant a new tenancy, unless the terms of the Court Order have been fully complied with for a continuous period of <b>at least</b> 12 months. Where the order has been of shorter duration, there should be compliance throughout its duration in order to consider the grant of a new tenancy.</p>

## OFFERING A NEW TENANCY OF THE SAME, OR A DIFFERENT TENANCY

4.20 Where the tenant is to be offered a new tenancy, then officers should apply the following criteria in determining whether the tenant should be offered a new tenancy of the same property, or a different property.

<b>NEW TENANCY OF SAME OR DIFFERENT PROPERTY</b>	
<b>Criteria</b>	<b>Description</b>
<b>Offer of new Tenancy of same property</b>	<p>A new tenancy of the same property should generally be offered to the tenant in the following circumstances:</p> <ul style="list-style-type: none"> <li>a) The tenant(s) still needs the size of home they occupy; or</li> <li>b) The size of the household has increased and while other circumstances remain unchanged, the household will be able to continue to live at the property for the time being or can apply for a transfer under the Council's Allocation Policy;</li> <li>c) The household includes a disabled person, and the property has been adapted for and still meets their needs.</li> </ul>
<b>Offer of a new Tenancy at a different property</b>	<p>A new tenancy of a different property which meets the tenants' needs under the Council's Allocation Policy may be offered in cases where:</p> <ul style="list-style-type: none"> <li>a) The tenant(s) are under-occupying or overcrowding the property; where the property is either too big or too small for their current need;</li> <li>b) Special features, such as adaptations for someone who no longer lives there are no longer needed by anyone living in the property;</li> <li>c) There is an age restriction governing who the property can be allocated to. A number of properties are designated for older people, including sheltered accommodation, there could be instances where the person with the age eligibility has moved away or died and the remaining occupants are too young to be eligible for this accommodation;</li> <li>d) The Council wishes to take possession back of the home in order to effectively manage its property stock, including housing and tenancy management reasons, asset management, to sell the property or carry out major works of repair or improvement, redevelopment or demolition.</li> </ul>

## LENGTH OF TERM OF NEW FLEXIBLE TENANCY

4.21 In deciding the length of the term of any new tenancy to be offered to the tenant, then Officers should follow the guidance in Part 2 of this policy, relating to the initial offer of a flexible tenancy.

4.22 The tenant will have the same rights of review as set out in Part 2 of this policy as to the length of the term. The tenant should be notified of the right of review. There is no right of review of the decision as to the type of tenancy (i.e. an offer a flexible tenancy).

## Procedure for offering a new tenancy of a different property

- 4.23 The tenant must be served with Notice that the tenancy of their current property will not be renewed (see Procedure Table below for procedure on 'Ending the Flexible tenancy').
- 4.24 This will be accompanied by a letter confirming that the Council will be offering a new tenancy of an alternative property suitable to the tenant's needs, and advising that they have been allocated to Emergency Housing Band A in accordance with the Council's Allocation Policy. The tenant may receive a direct offer from the Housing Register/Allocations Team before the date upon which they are required to give up possession of their current home, which will be available to them when any possession order takes effect.
- 4.25 The tenant has a right of review and appeal in respect of the suitability of any offer of alternative accommodation in accordance with the Allocations Policy. The Council operates a one-offer only policy.

### PROCEDURE TABLE

ENDING THE FLEXIBLE TENANCY		
A court must make an order for possession of the dwelling-house let on the tenancy if it is satisfied that the following conditions are met		
1.	<p><b>Notice of decision not to grant another tenancy of the (same) property</b></p> <p><b>This Notice must be served at least 6 months before the end of the tenancy</b></p>	<p>The Council has given the tenant not less than six months' notice in writing—</p> <p>(a) stating that it does not propose to grant another tenancy on the expiry of the flexible tenancy,</p> <p>(b) setting out the Council's reasons for not proposing to grant another tenancy, and</p> <p>(c) informing the tenant of the tenant's right to request a review of the Council's proposal and of the time within which such a request must be made.</p>
2.	<p><b>Notice Seeking Possession</b></p> <p><b>This Notice must be served at least 2 months before the end of the tenancy.</b></p>	<p>The Council has given the tenant not less than two months' notice in writing stating that it requires possession of the property.</p>
<b>The Council uses a combined form of Notice</b>		
3.	<b>The tenancy has ended</b>	A claim for possession can be commenced once the flexible tenancy has come to an end

## REVIEW OF DECISION TO END THE FLEXIBLE TENANCY

- 4.26 The Tenant has a right to request a review of:
- (a) a 6 month Notice of a decision not to grant a new tenancy of the same property (whether or not an offer of an alternative property has been made); **and**
  - (b) a decision as to the length of tenancy to be offered (see 4.21-4.22 above).
- 4.27 Tenants have a right to request a review of a decision not to offer new flexible tenancy within 21 days of service of the 6 month Notice.
- 4.28 The procedure and rules for conducting a review are the same as for the review as to the length of term, set out in the Table above under paragraph 2.30.

### Human Rights Act 1998, Children Act 2004 and Equality Act 2010

- 4.29 Officers must, in all decisions, but particularly decisions to terminate a tenancy, bear in mind a residential occupier's Article 8 ECHR right to respect for their home and private life, the requirement to have regard to the need to safeguard and promote the welfare of children, and the Council's Public Sector Equality Duty. Decisions must be proportionate to these rights.
- 4.30 In appropriate circumstances, an Equality Impact Assessment should be carried out before the service of Notice and/or commencement of court proceedings.

### Exceptional Renewal of Tenancies

- 4.31 There may, on occasion, be exceptional circumstances when, although at least one of the above reasons for not offering a new tenancy applies, the Director of Housing, (or designated equivalent), may nevertheless decide that it is appropriate to offer the tenant a new tenancy either of the same or a different property.
- 4.32 The Director of Housing will take any such exceptional circumstances on a case-by-case basis. Examples of circumstances where this discretion **may** be exercised are set out below. This is not intended to be exhaustive, and the Council offers no guarantee that the discretion will be exercised in such cases:
- The household contains someone with a disability and although one of the reasons not to renew applies, there are no alternative properties available in the Borough which could feasibly and/or cost effectively be adapted for the disabled person's needs.
  - A person in the household is terminally ill;
  - Where there are continuing duties owed to a care-leaver;
  - Where a child in the household is in the year of taking GCSEs or A Levels and there are no alternative properties within one hour's commute to the school the child is currently attending;
  - Following consultation with the Head of Children's Services, it is agreed that a child's specific educational needs can only be met at one particular school and there are no alternative properties available within a feasible commuting distance;

- Having consulted with the Head of Adult Social Care, it is agreed there are no alternative properties available that would avoid severely compromising the welfare of a vulnerable person in the household;
- When all alternative properties would mean that a tenant's commuting time to work is extended beyond one hour each way.

#### Advice and assistance to find alternative housing where new tenancy refused

4.33 In cases where the applicant no longer has a housing need, the Council's Housing Advice team will offer advice on intermediate and market-rental options, and assistance to support the tenant and their household to find alternative accommodation in the private sector, in conjunction with other housing related services and agencies.

4.34 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.

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## PART 5 - Mutual Exchange

### Scope

- 5.1 This section sets out the rules relating to mutual exchanges under Section 92 of the Housing Act 1985 (dealing with assignments), and requests for transfer under s.158 Localism Act 1996.

### Homeswap Scheme / Mutual Exchanges

- 5.2 **Homeswap** enables existing social housing tenants (this means tenants of councils and housing associations) the opportunity to swap their home with another, often called 'mutual exchanges', once they have the permission of all landlords involved, whether Havering Council, a housing association or another council.
- 5.3 Given the demand for and the shortage of social housing in Havering, the waiting time for a transfer can be lengthy and, therefore, for many tenants a mutual exchange is their best prospect for moving.
- 5.4 Such schemes help tenants to be closer to new places of work and/or friends and family. The Council supports the Government's '**Homes Swap Direct**' initiative, bringing together the range of mutual exchange regimes that exist. The Council will make available facilities at its principal office to enable applicants wishing to review housing options using the **Homeswap** mechanism as well as promoting the initiative more widely.
- 5.5 Social housing tenants can also register for a mutual exchange, advertise their property, and search for prospective exchange partners, on **Homeswap** at: - <http://www.homeswapper.co.uk>;

### Responding to a Mutual Exchange application

- 5.6 Officers must respond to mutual exchange applications **within 42 days** of the application or the Council cannot rely on the grounds for refusal set out in Schedule 3 of the Act.

### Refusal of mutual exchange

- 5.7 The Council will only refuse a request to a mutual exchange for a limited number of reasons, which are defined by law (The Housing Act 1985 and the Housing Act 2004). These include, but are not limited to that:

<b>GROUND S FOR REFUSAL OF A MUTUAL EXCHANGE APPLICATION - SCH.3 HOUSING ACT 1985</b>
<b>Ground 1</b> The tenant or the proposed assignee is subject to an order of the court for the possession of the dwelling-house of which he is the secure tenant.
<b>Ground 2</b> Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 6 in Part I of Schedule 2 (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under section 83 or 83ZA (notice of proceedings for possession) which specifies one or more of those grounds and is still in force.
<b>Ground 2A</b> Either— (a) a relevant order, a suspended anti-social behavior possession order or a suspended riot-related possession order is in force, or



(b) an application is pending before any court for a relevant order, a demotion order, an anti-social behaviour possession order or a riot-related possession order to be made, in respect of the tenant or the proposed assignee or a person who is residing with either of them.

A “relevant order” means—  
an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour);

- an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour);
- an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords);
- an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998;
- an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003 or section 27 of the Police and Justice Act 2006.
- an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014;
- an order under section 22 of that Act.
- an “anti-social behaviour possession order” means an order for possession under Ground 2 in Schedule 2 to this Act or Ground 14 in Schedule 2 to the Housing Act 1988.
- a “demotion order” means a demotion order under section 82A of this Act or section 6A of the Housing Act 1988.
- a “riot-related possession order” means an order for possession under Ground 2ZA in Schedule 2 to this Act or Ground 14ZA in Schedule 2 to the Housing Act 1988.

Where the tenancy of the tenant or the proposed assignee is a joint tenancy, any reference to that person includes (where the context permits) a reference to any of the joint tenants.

**Ground 2B**

The dwelling-house is subject to a closure notice or closure order under Chapter 3 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

**Ground 3**

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

**Ground 4**

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

**Ground 5**

The dwelling-house:

(a) forms part of or is within the curtilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, **and**

(b) was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of:

- the landlord,
- a local authority,
- a development corporation,
- a housing action trust
- a Mayoral development corporation,
- an urban development corporation, or
- the governors of an aided school.

**Ground 6**

The landlord is a charity and the proposed assignee’s occupation of the dwelling-house would conflict with the objects of the charity.

**Ground 7**

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

**Ground 8**

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

**Ground 9**

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

**Ground 10**

The dwelling-house is the subject of a management agreement under which the manager is a housing association of which at least half the members are tenants of dwelling-houses subject to the agreement, at least half the tenants of the dwelling-houses are members of the association and the proposed assignee is not, and is not willing to become, a member of the association.

Reference to a management agreement includes a section 247 or 249 arrangement, as defined by section 250A (6) of the Housing and Regeneration Act 2008.

**Right of Review**

- 5.8 If the Council refuse consent for a mutual exchange, the Council will give the full reasons for this. There is a right of review against this decision, details of which are set out in Part 8 of the Council's Allocation Policy.

**Under-occupation & down-sizing**

- 5.9 Due to the shortage of social housing the Council is unable to allow exchanges that would result in under-occupation of accommodation. Please refer to the Council's Bedroom Standard in the Council's Allocation Policy. This will assist tenants in identifying their eligibility before they submit their request for an exchange.
- 5.10 However, where a Havering tenant has registered to downsize to smaller accommodation, they will be permitted to exchange to accommodation that has one room in excess of their requirements.

**Rent arrears and other breaches of tenancy**

- 5.11 The Council will not usually allow a mutual exchange to proceed where there are rent arrears or other breaches of tenancy (e.g. ASB).

**Property condition**

- 5.12 The Council expect tenants to keep their homes in a reasonable condition and officers should inspect the property before making a decision on a request to exchange to ensure that it meets the required standards.
- 5.13 Tenants will need to ensure the property matches the description and agree any fixtures and fittings which are to be left in the home with their mutual exchange partner. Tenants are responsible for any non-standard items.

- 5.14 However, once these matters have been sorted out, the tenant should be able to move, so long as the reasons for refusal listed above do not apply.

### Grant of Tenancy on Mutual Exchange

- 5.15 A mutual exchange operates by assignment of the tenancy under s.92 Housing Act 1985. It is the tenancy to which secure status under Pt. 4 Housing Act 1985 attaches, although that status as a successor travels with the individual under s.88(3) Housing Act 1985.
- 5.16 Accordingly, in most cases, new tenants by way of mutual exchange do not need to sign a new tenancy agreement as they will automatically become tenants under the original tenancy (see Assignment below). The new tenant's full details should however be obtained for the Council's records.

### Assignment

- 5.17 Most mutual exchanges are effected by a Deed of Assignment. However, special rules apply to where a flexible tenancy is swapped with a lifetime tenancy which commenced before 1<sup>st</sup> April 2012 (see below)

### Flexible & Lifetime tenancy swap

- 5.18 Flexible tenants may swap their tenancies with weekly secure tenants.
- 5.19 However, where the weekly secure tenancy began prior to 1<sup>st</sup> April 2012, then the tenants will each have to surrender their tenancy and be granted a new tenancy with the same tenure as their original tenancy (s.158 Localism Act 2011).

## PART 6 – Succession

- 6.1 This policy has been introduced as a result of changes to the statutory succession rights introduced by the Localism Act 2011, and in anticipation of the introduction of the Housing and Planning Act 2016.
- 6.2 This policy does not apply in respect of non-secure tenancies or licences of the Council. These tenancies or licences are not intended to be assignable or capable of giving rise to any succession, either statutory or discretionary. Members of the household of such tenants/licencees who are deceased are advised to apply to the Council for housing under the homelessness provisions of Part VII Housing Act 1996 and/or under the Council's Housing Allocations Scheme.
- 6.3 This policy has effect from [ ] and will apply to all applications to assign or to succeed to a tenancy to which the policy applies received by the Council on or after that date. Applications to assign or succeed to tenancies received prior to that date will be dealt with under the Council's policy in force at the relevant time.

### Legislation

- 6.4 This policy takes account of the following legislative provisions (which is not intended to be exhaustive) and statutory guidance:
- Protection from Eviction Act 1977
  - Housing Act 1985
  - Housing Act 1986
  - Leasehold Reform, Housing and Urban Development Act 1993
  - Housing Act 1996
  - Localism Act 2011
  - Housing and Planning Act 2016

### What is Succession?

- 6.5 Succession refers to the legal procedure where the remainder of the deceased's introductory or secure tenancy is transferred by operation of law to another person when the tenant dies. This is often called 'statutory succession'.
- 6.6 Where a person succeeds to the tenancy by a statutory right, this is effected automatically by law, and does not require any formal steps to transfer the legal tenancy. The successor will automatically become the tenant immediately upon the tenant's death. A new tenancy agreement should not be signed where there is a statutory succession.

### Legal Succession Rights granted by law

#### Introductory Tenancies (s.131 Housing Act 1996)

- 6.10 A person is qualified to succeed the tenant under an introductory tenancy if he/she occupies the property as his/her only principal home at the time of the tenant's death and either:
- a) He/she is the tenant's spouse or civil partner, or
  - b) He/she is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless in either case, the tenant had previously succeeded to the tenancy (only one succession is permitted by law).

- 6.11 Non-spouse/civil partner succession rights will be removed by the Housing and Planning Act 2016, if and when the relevant provisions are brought into force.

#### Secure Tenancies granted BEFORE 1<sup>st</sup> April 2012 (s.87 Housing Act 1985)

- 6.12 A person is qualified to succeed the tenant under a secure tenancy if/he/she occupies the dwelling-house as his/her principal home at the time of the tenant's death and either:
- a) He/she is the tenant's spouse or civil partner, or
  - b) He/she is another member of the tenant's family, (the parent, sister, brother, son or daughter, grandson or granddaughter of the deceased tenant - half-blood/step-relations are included in this definition); and
  - c) has resided with the tenant throughout the period of twelve months ending with the tenant's death;

unless, in either case, the tenant had previously succeeded to the tenancy (only one succession is permitted in law).

- 6.13. Non-spouse/civil partner succession rights will be removed by the Housing and Planning Act 2016, if and when the relevant provisions are brought into force.

#### Secure Tenancies granted on or AFTER 1<sup>st</sup> April 2012 (s.86A Housing Act 1985, s.160 Localism Act 2011)

- 6.14 The tenant's spouse or civil partner is entitled to succeed to a secure tenancy providing that they resided with the deceased tenant as their only or principal home at the date of the tenant's death.
- 6.15 The Act provides that other persons may be entitled to succeed to a tenancy but it would be for the Council's to determine what additional succession rights, if any, should be granted upon the death of a secure tenant.
- 6.16 ***Since the introduction of the Localism Act 2011, the Council has not amended the terms of its secure tenancy agreement which currently reflects the above pre-2012 succession rights afforded to other family members.***

#### All Introductory and Secure Tenancies (On commencement of the Housing and Planning Act 2016)

- 6.17 From the commencement date of the Housing and Planning Act 2016, non-spouse/civil partner statutory succession rights will be repealed for all secure tenancies, regardless of when the tenancy was granted, and it will be for Councils to determine additional succession rights, if any, should be granted upon the death of a secure tenant.
- 6.18 The Council's [proposed] form of secure tenancy terms and conditions (2019) includes spouse/civil partner succession rights in accordance with the Housing and Planning Act 2016 but does not include succession rights for other people, including family members.

#### Spouse or Civil Partner successions

- 6.19 A person is qualified to succeed the tenant under a secure tenancy if he/she occupies the dwelling-house as his/her only or principal home at the time of the tenant's death and he/she is the tenant's spouse or civil partner, unless the tenant had previously succeeded to the tenancy (only one succession is permitted by law).

- 6.20 It should be noted that a spouse or civil partner must be residing in the property as their only or principal home as at the date of the tenant's death (but not for 12 months). Accordingly, a spouse or civil partner who is **not** residing with the tenant at the date of their death will not succeed to the tenancy.
- 6.21 For this purpose, spouse/civil partner includes someone living with the tenant as husband or wife or as if they were civil partners. The Council may require evidence to demonstrate that the couple have been residing together for at least 12 months in a committed long term relationship. Such requests should be approached sensitively.

#### **Under-occupation by legal successor**

- 6.22 A succession will not be granted in respect of a property which is under-occupied as at the date of the tenant's death.

#### **Sheltered, Extra Care or Age restricted properties**

- 6.23 A succession will not be granted in respect of a property which is intended for use as sheltered or extra-care accommodation or where there is an age restriction (e.g. over 55s only) which is not met by the potential successor.

#### **Specially adapted properties**

- 6.24 A succession will not be granted in respect of a property which has been specially adapted for use by disabled or less-abled persons.

#### **Under 18 years old**

- 6.25 A person under the age of 18 years at the date of the tenant's death will **not** be entitled to a 'succession' as persons under the age of 18 cannot hold a legal tenancy.
- 6.26 Any children in occupation of the property will be referred to Children's Services for assistance and/or fostering, adoption or care services. Children who attain the age of 18 years shortly after the tenant's death will be referred to the Housing Solutions team.

#### **Rent arrears on succession**

- 6.27. A successor does not become liable for the rent arrears of the deceased tenant. An occupier may be liable for damages for use and occupation of the property equivalent to the amount of rent from the date of expiry of the Notice to Quit terminating the deceased tenant's contractual tenancy.
- 6.28 In the case of a statutory succession, then the successor tenant will become liable for the rent from the date of death of the tenant.

#### **Outright and Suspended Possession Orders**

- 6.29 Possession orders will not operate to prevent a statutory right of succession, unless the possession order has been enforced by Warrant or Writ of Possession.
- 6.30 If the Possession Order was granted in respect of the acts or omissions of the potential successor, then it would not be appropriate to grant a discretionary succession to them.

## Non-qualifying family members and live-in carers

- 6.31 The Council recognises that some hardship may be suffered by non-qualifying family members and live-in carers, particularly where they have resided with the tenant for many years, or if they themselves are vulnerable by reason of physical or mental ill-health or are limited means.
- 6.32 In appropriate cases, the Council may defer the issue of Court proceedings for possession until up to 6 months' after the tenant's death, providing the occupiers of the property agree and regularly pay use and occupation charges in respect of the property (the acceptance of which is not intended to give rise to a new tenancy).
- 6.33 The Council will also assist such persons with advice and referrals to the Housing Solutions team and where appropriate, Social Services and any other appropriate partner agencies.

## Notices and Court Proceedings for Possession following death of tenant

- 6.34 Unless the Council is satisfied that there has been a legal succession to the deceased tenant's spouse or civil partner, then a Notice to Quit (with statutory information) should be served in the second week after the tenant's death upon the property addressed to :
- "The Personal Representatives of **[NAME OF TENANT]** (deceased)  
**[TENANCY ADDRESS]**
- 6.35 A copy of the Notice must also be sent with Form NL1 and prescribed fee to:
- The Public Trustee  
PO Box 3010  
London  
WC2A 1AX
- 6.36 Copies of the Notice should also be sent to the deceased's next of kin, or any person dealing with their Estate.
- 6.37 Prompt service of the Notice to Quit is important since an occupier will only become liable for damages for use and occupation from the date of expiry of the Notice to Quit. Failure to serve the Notice to Quit timeously will result in a loss of rent to the Council.
- 6.38 Upon expiry of the Notice to Quit, then the case should be referred to OneSource Legal for possession proceedings to be commenced.
- 6.39 If there is a successor or potential successor in occupation of the property who is under-occupying the property, then a Notice Seeking Possession, marked 'without prejudice to Notice to Quit' should be served upon Ground 15A, Schedule 2 Housing Act 1985 (under-occupation following death), and any other relevant grounds for possession.
- 6.40 Proceedings for possession under Ground 15A, (as referenced above), must be commenced not less than 6 and not more than 12 months after the tenant's death.

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## PART 7 – Assignment

- 7.1 Assignment refers to a transfer of a tenancy from one person to another.
- 7.2 Applications to transfer a sole tenancy into joint names or to transfer a joint tenancy to a sole tenancy are dealt with in accordance with this policy.
- 7.3 Assignments must be effected by a Deed of Assignment. Attempts to assign a tenancy by letter or a signed agreement which does not comply with the legal requirements of a Deed will not be recognised as valid.

### Rights of assignment granted by law

- 7.4 Introductory and secure tenants have the rights set out below to assign their tenancy **without the consent of the Council**
- 7.5 Tenants have the right to assign the tenancy to a person who has a statutory or contractual right of succession to the tenancy. This does not apply to discretionary successions.
- 7.6 The Council must be satisfied that the assignee would be entitled to succeed to the tenancy upon the tenant's death (see Part 6 above). An assignment of a tenancy will count as succession to the tenancy and so no further succession rights will arise after the assignment of a tenancy.

### Assignment Pursuant to Court Order

- 7.7 Tenants have the right to assign their tenancy where the assignment is in pursuance of an order made under –
- Section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings), or
  - Section 17 (1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce), or
  - Paragraph 1 of Schedule 1 of the Children Act 1989 (orders for financial relief against parents), or
  - Part 2 of Schedule 5, or paragraph 9 (2) or (3) of Schedule 7, to the Civil Partnership Act 2004 (property adjustment orders in connection with civil partnership proceedings or after overseas dissolution of civil partnership).

### Discretionary Assignments

- 7.8 It is the Council's policy not to allow tenants to assign or transfer their tenancies except as permitted by law.
- 7.9 Accordingly requests to assign tenancies will only be considered in the most exceptional of circumstances. In such exceptional cases, the proposed assignee must meet the eligibility and qualification criteria set out in the Council's Allocation Policy.



## **PART 8 – General information**

### **Dissemination and communication**

- 8.1 The Council will consult with tenants, leaseholders, relevant partners and all appropriate stakeholders to review this policy prior to publication. The policy will be available to view to the public on the internet and to Council Officers on the intranet.

### **Implementation**

- 8.2 It is recommended that Tenancy and Customer Service staff are fully briefed on this policy and are aware on the processes and documentation required to administer this policy.

### **Monitoring and review**

- 8.3 Havering Council will monitor and review its performance and track the impact of our approach to ensure continuous improvement. This policy will be reviewed in three years from the date it has been published and will be reviewed by the lead officer sponsoring this policy.

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