



## Fixed Term Tenancy Policy

### 1. BACKGROUND AND OBJECTIVES

- 1.1 The Localism Act 2011 introduced new flexibilities for registered providers to offer social housing for a fixed-term. The new flexibilities of the Act are designed to ensure the most effective use of social housing stock.
- 1.2 Westward acknowledges there is a balance in being able to offer customers a degree of stability to invest in their home and community, and to plan for education and employment, whilst at the same time ensuring social housing homes are occupied by those who need it the most.
- 1.3 This policy sets out the circumstances in which Westward will offer fixed-term tenancies to achieve this balance and how they will be reviewed. It explains what happens at the end of the fixed-term, and the circumstances of when a fixed-term tenancy is or is not renewed.
- 1.4 The objectives of this policy are:
  - to provide clarity and guidance for applicants, tenants, staff and external stakeholders,
  - to provide a suitable home for as long as a tenant needs it
  - to make best use of Westward's stock to increase the number of people we are able to house

### 2. DEFINITIONS

#### 2.1 Probationary Tenancy

A probationary tenancy is a one-year trial tenancy. Westward offer probationary tenancies to all tenants who do not hold an assured or secure tenancy prior to their nomination for housing.

At the end of the year, the tenancy will either be brought to an end, extended, or the probation period is successfully completed. If Westward considers the tenant to have successfully completed the probationary period they will be given notice that they are to become an assured tenant, or they will be offered an assured shorthold tenancy for a fixed-term.

#### 2.2 Fixed-Term Tenancy

This is an assured shorthold tenancy granted by a Registered Provider which is fixed for a minimum period of 2 years.

### **3. OFFERING A FIXED TERM TENANCY**

- 3.1 The key consideration when a property is being let will be whether it is to be let on a lifetime assured or a fixed-term tenancy.
- 3.2 Westward will continue to offer lifetime tenancies however will offer fixed-term tenancies in the following circumstances:
- where an adapted property has two or more bedrooms
  - where a property has 3 or more bedrooms
- 3.3 Where a fixed-term tenancy is to be offered the fixed term will usually be for seven years, including a probationary period of 12 months, (which can be extended to 18 months). The initial tenancy will be reviewed at 8 months and will only continue if there have been no significant breaches of the tenancy terms and conditions. Provided these have been kept, at the end of the probationary period the tenancy will continue for the remaining 6 years.
- 3.4 In exceptional circumstances Westward may issue a fixed-term of between two to six years. This includes, (but is not limited to):
- Where a property is due to be part of a regeneration project;
  - Where the tenancy conduct needs monitoring following antisocial behaviour or nuisance or there are/likely to be other breaches of tenancy such that the property may not be appropriate for their needs.
  - Where there are questions about the long terms suitability of the property for the tenants needs, e.g. the end of a fixed term tenancy review where no suitable alternative property is available at the time but is likely to become available,
  - Where tenancies are re-granted through mutual exchange and the tenancy being exchanged has fewer than 2 years remaining on it.
- 3.5 Westward will consider whether a household is vulnerable by reason of age, disability, illness and households with children when considering which type of tenancy is appropriate. It may be appropriate to offer a tenancy type outside of the terms of this policy, in some circumstances, where a household member is vulnerable and a tenancy under this policy may not be appropriate for their needs.
- 3.6 We will comply with the regulatory requirement to maintain the security of tenure of existing tenants with a lifetime tenancy by offering another lifetime tenancy in the event of a move.
- 3.7 Fixed-term tenancies will not be offered for:
- Any existing lifetime assured / secure tenant of Westward,
  - Any existing lifetime assured / secure tenant of a Local Authority or Registered Provider who have held their tenancy prior to 15th January 2012.
  - Any properties that are identified as sheltered or retirement living

- 3.7 Where pre-existing contractual arrangements are in place that affect the tenancy type that can be offered, (for example under section 106 agreements or as part of stock transfer promises), this will take precedence over the commitments given in this policy, unless variations are agreed with the relevant local authority or partner to the contract. Variations may also occur as part of Local Lettings Plans agreed with the local authority to address housing market issues particular to the area.
- 3.8 If a fixed-term tenancy is offered a full explanation will be provided on how and when the tenancy will be reviewed pending the end of the fixed-term.

#### **4. REVIEWING A FIXED TERM TENANCY**

- 4.1 To identify how best to meet the needs of a household, a review will be undertaken to establish whether the household circumstances have changed. This will be at least 10 months before the end of the fixed-term. Tenants are expected to actively engage in reviews and provide evidence of their financial circumstances.
- 4.2 Westward expect and will support tenants to honour their tenancy obligations, pay all charges due, to look after the property and respect their neighbours. If at the end of the fixed term a tenant has met their obligations and their financial, family and social circumstances have not significantly changed, we would expect to offer a further fixed term tenancy of 7 years.
- 4.3 The review is designed to identify if one of the following applies:
- The property is under-occupied,
  - The property is over-occupied,
  - The property is adapted and the person requiring the adaptations no longer lives at the property.
  - The household's financial circumstances have changed so that other housing options are available such as home ownership, renting at full market value and other tenures.
- 4.4 If the review establishes that the household circumstances have not changed, another fixed-term tenancy will be issued. This will usually be for another seven year term but in exceptional cases, (e.g. as set out in clause 3.4 above), a term of two to six years may be offered. There is no limit to the number of times a further fixed term tenancy can be offered.
- 4.5 If the review establishes a change in household circumstances, one of the following actions will be taken:
- The tenant will not be offered another tenancy;
  - The tenant will be given assistance to find a more suitable property.
- 4.6 In some circumstances, where a change in household circumstances has been established, Westward may consider it appropriate that the tenant remain in the property under new terms.

4.7 If it is decided that another tenancy will not be offered, the tenant will be issued with notice to leave the property. This notice will be served at least 6 months before the end of the tenancy using section 21 of the Housing Act (1988) to enable the tenant sufficient time to secure alternative accommodation. A plan will be agreed with the tenant to explore the available housing options and to establish the best housing solution for them.

4.8 The circumstances when a decision is made not to grant another tenancy may include:

- The tenant no longer requires the accommodation or their needs would be better suited to a different type of housing or tenancy (e.g. due to financial reasons, or care and support needs);
- A breach of tenancy occurred which indicates that the property is not suitable for the tenants needs; or where Westward would be considering legal action to end the tenancy if they were holding a lifetime assured tenancy;
- Tenancy fraud has been identified during the fixed-term;
- Household income exceeds the level that would exclude the household from joining their local Housing Allocations scheme;
- The tenant has not engaged in the review process;
- The tenant does not wish to accept the terms of the new fixed-term tenancy;
- The tenant or a member of their household has come into legal ownership of another residential property or Westward have become aware that the tenant owns another property.

4.9 All tenants not being offered another fixed-term tenancy will have the right for this decision to be reviewed.

## **5. ENDING A FIXED TERM TENANCY DURING THE TERM**

5.1 In addition to ending a fixed-term tenancy in the circumstances set out above, it may be necessary to end the tenancy within the fixed-term if it is not being conducted in an appropriate manner. This will be done by serving notice of seeking possession under the relevant ground for possession (as set out in Schedule 2 of the Housing Act 1988).

5.2 If the tenant chooses to end the tenancy before the end of the fixed-term they may do so by offering to surrender the tenancy giving at least four weeks notice. Westward will not unreasonably refuse to accept such offer to surrender. In the case of joint tenants both tenants must agree to the surrender.

5.3 If the tenant has abandoned the property during the fixed-term, steps will be taken to forfeit (end) the tenancy and recover possession.

## **6. APPEALS PROCEDURE**

- 6.1 At least 6 months before the end of the fixed term tenancy, the tenant(s) will be served a 'minded to' notice if Westward is considering not to offer a further tenancy at the end of the fixed term period, and they will be informed of their right to appeal.
- 6.2 A Notice of Requiring Possession (a section 21 notice) will also be served 2 months before the end of the fixed term. Any tenant who has been informed that their tenancy is to be terminated and a further tenancy is not being offered, can appeal against that decision not to renew the tenancy.
- 6.3 Any appeal must be made in writing within 21 calendar days of the service of the minded to notice, not the final section 21 notice. Appeals will be considered on a case by case basis by the Assistant Director (Housing), who will consider:
- If the Notice has been served correctly,
  - If the action to serve the notice and end the tenancy is appropriate

## **7. MONITORING**

- 7.1 We continually seek to adopt good practice in delivering the services we provide and aim to ensure that any policies introduced meet the aims and objectives they were set up to deliver.
- 7.2 This policy will be measured by:
- The number of fixed-term tenancies issued
  - The number of fixed-term tenancies ended at the end of their fixed term period
  - The number of fixed term tenancies re-issued for alternative properties
  - The number of appeals made against ending a fixed term tenancy and the number of appeals upheld
  - The number of refusals received when offering a tenancy on a fixed-term at shortlisting stage.

## **8. STAFF TRAINING**

- 8.1 We will ensure that appropriate training is provided for all staff who offer, manage or advise customers on fixed term tenancies as part of their role. It is important to the success of this policy, and its stated objectives, that the appropriate staff have sufficient knowledge of, and fully understand, the key issues relating to fixed term tenancies and to successfully implement this approach.

## **9. EQUALITY AND DIVERSITY**

- 9.1 We will ensure that this policy is applied fairly to members and applicants. We will not directly or indirectly discriminate against any person or group of

people because of their race, religion, gender, marital status, sexual orientation, disability or other grounds set out in our Equality Policy.

- 9.2 When applying this policy we will act sensitively towards the diverse needs of individuals and to reduce discrimination and harassment.

## 10. POLICY REVIEW

10.1 We are committed to ensuring that this policy and procedure is open and transparent and will continually monitor and review its effectiveness.

10.2 Given the potential impact of this policy it will be reviewed at least every two years unless feedback, best practice or legislation requires an earlier review.

## 11. ASSOCIATED DOCUMENTS

11.1 This policy has been developed in line with current legislation, guidance on good practice and other Westward policies, specifically:

- The Housing Act 1988
- The Localism Act 2011
- Westward Allocations & Lettings policy
- Westward Mutual Exchange Policy

## 12. APPROVAL DATES

| Version/Date | Consultation & Approval Process |                         |           |                    | Review   |
|--------------|---------------------------------|-------------------------|-----------|--------------------|----------|
|              | <i>Staff / Stakeholders</i>     | <i>Committee/ Board</i> | <i>ET</i> | <i>Staff Forum</i> |          |
| V1 Feb 20    | Jan 2020                        | n/a                     | Feb 2020  | n/a                | Feb 2020 |
|              |                                 |                         |           |                    |          |