



LONDON BOROUGH OF BRENT

Tenancy Management Policy

2020–2024



1.0 Introduction

The Localism Act 2011, requires the Council to produce and publish a tenancy strategy which sets out how social housing should be offered to meet local housing need. All social housing landlords are required to publish a tenancy management policy which has regard to content of the Council's tenancy strategy. This includes:

- the types of tenancy granted
- how a person's circumstance will be considered when deciding the type of tenancy to grant
- the length of time a tenancy will be granted for
- and how tenancies will be managed towards the end including the offer of a new tenancy

In addition to the Localism Act 2011, the Regulator for Social Housing consumer standards include a Tenancy Standard which outlines further expectations for social housing landlords to address within their tenancy policy, specifically the management of mutual exchanges and successions.

Brent Council is landlord to 8,000 Council tenants. The purpose of this policy to ensure current and future Council tenancies are managed consistently and supports the Council's vision for Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home.

This policy applies to Brent Council tenancies only.

2.0 Equality and Diversity

This policy supports the Council's commitment to championing equality and ensuring procedures are in place so all residents are treated fairly and without unlawful discrimination in line with the Equality Act 2010.

3.0 Links to the Council's corporate aims

Our [Borough Plan](#) sets out a clear commitment to make Brent a great place to live and work, where people feel that they have opportunities to change their lives for the better. It should be read alongside the Council's [Tenancy Strategy](#), [Allocations Scheme](#) and [Homelessness, and Rough Sleeper strategy](#).

4.0 Policy objectives

The aim of this policy is to ensure Council tenancies are offered and managed consistently by:

- Clearly outlining the type of tenancies offered by the Council and what could lead to a change in tenancy type e.g. demotion
- Ensuring tenants understand how they can make changes to their tenancy
- Explaining household members' right to succeed a tenancy and how this will be managed

4.0 Types of tenancy

4.1 Introductory Tenancy

All new Council tenants will be offered an introductory tenancy lasting up to 12 months. An introductory tenancy has the same rights as a secure tenancy but for this 12-month period a tenant cannot:

- Buy their Council home
- Apply or undertake a mutual exchange of their home
- Have a lodger
- Make any alterations to the home

Throughout this 12-month period, the tenancy will be monitored (see section 8.1 for details). When a tenant has successfully completed their tenancy they will then be automatically granted a Secure tenancy.

If there is a breach of tenancy during this 12-month period, the Council can extend an introductory tenancy for a further 6 months. If the Council feels the breach is severe, it will terminate the introductory tenancy before the 12-month period or extended period ends. Any introductory tenancy not ended within this period will automatically become a secure tenancy.

If an introductory tenancy is ended, the tenant will be supported to access help and advice on alternative housing options if this occurs (see section 9.0 ending a tenancy)

4.2 Secure Tenancy

Once an introductory tenancy has been completed, a tenant will be offered a secure tenancy. A secure tenancy is a lifetime tenancy

meaning it cannot expire. This type of tenancy can only be granted by the Council and can only be broken if the tenant breaches their tenancy conditions.

Secure Tenants can:

- Pass on their tenancy when they die
- Exchange homes with another tenant via mutual exchange
- Buy their home
- Repair their home if we fail to do so
- Make improvements or alterations to their home (subject to permission)
- Have lodgers or sublet part of their home (subject to permission)

4.2 Fixed term tenancy

Prior to this policy, the Council offered fixed term tenancies, which are also known as flexible tenancies and are one type of secure tenancy. These tenancies ended after a five-year period and the tenants circumstances would be reviewed. Based on the review, the tenant would be offered another fixed term tenancy or if found to no longer require social housing be supported into an alternative tenure such as private rented or shared ownership. Through consultation with existing Council tenants and Brent residents in Temporary Accommodation, the Council has decided to end the use of fixed term tenancies.

Brent Council tenants who are currently on a fixed term tenancy will be converted to a secure tenancy without a fixed term (see section 4.2).

4.4 Demoted tenancy

If a tenant has been involved in antisocial behaviour or, is using their home unlawfully, the Council can serve a four-week notice of its intention to seek to demote the tenancy for 12 months and thereafter apply for a court order to provide for this. A demoted tenancy order reduces a tenant's rights and facilitates the eviction process if required.

At the end of the 12-month period, if the tenant has complied with the court order their tenancy will automatically revert to a secure tenancy. If they have not complied with the order, the Council will serve a four-week notice stating that it has made a decision to seek possession of the property and obtain a possession order to evict the demoted tenant.

A demoted tenant will have the opportunity to appeal the decision to seek to evict and the Council will review the decision if requested. If the outcome review upholds the decision to seek possession of the property, the Council can apply to the Court for a possession order and end the demoted tenancy. If the review finds the Council should not uphold the decision to seek possession, the tenancy will revert to a secure tenancy.

The Council will not demote a tenancy more than once. If a tenant whose tenancy has previously been demoted but reverted back to a secure tenancy then engages in anti-social behaviour again, the Council will take steps to end the tenancy.

4.5 Temporary tenancy – Licence agreement

A small number of Council homes may require major works. A decant to a temporary accommodation will be offered if it is considered unsafe for a household to remain at home during the work.

The tenant(s) will be offered a licence agreement for the duration of the works. When works are completed, the tenant(s) will be served with Notice to end the Licence agreement, return to their Council home, and continue their secure tenancy.

5.0 Sole and Joint tenancies

The Council offers both sole and joint tenancies to new households moving into a new Council home. This is subject to eligibility. It is the household's decision whether to enter into a joint or sole tenancy.

5.1 Sole tenancy

A sole tenancy is where one member of the household signs the tenancy and is responsible for ensuring the household fulfils the responsibilities set out within the tenancy agreement. This includes paying the rent and ensuring no one in the household is responsible for causing anti-social behaviour. Where there is a breach of tenancy, the sole tenant is accountable, even if a member of their household or guest is responsible.

5.2 Joint tenancy

A Joint Tenancy is where more than one person has the responsibility for meeting the requirements of the tenancy agreement. Both tenants are entitled to stay in the home until the end of the tenancy.

The Council will offer this tenancy to a maximum of two people and recognises applications for joint tenancies where two people are married or in a civil partnership. Joint tenancies will not be offered to anyone else who may be living in your home. In order to apply for a joint tenancy, you will need to provide proof of marriage or civil partnership and proof of joint residency for at least 12 months will

need to be provided. The Council will offer joint tenancies to couples who can prove they have been cohabiting for at least 24 months.

Joint tenants will have equal rights to the tenancy and an opportunity to have their say in consultation undertaken by the Council. In cases where the Council requires a ballot vote to support regeneration or the development of new council homes, both tenants will have the opportunity to participate in the vote.

6.0 Changes to a tenancy

6.1 Changing a sole tenancy to a joint tenancy

Existing tenants are able to convert their current tenancies to a Joint Tenancy. Both parties must agree to the respective partner being added to the tenancy. The Housing Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985. The tenant will be required to complete a Deed of Assignment. It is advised tenants seek independent legal advice.

Where the tenant has a statutory right of assignment, then it is not necessary to sign a new joint tenancy agreement; this will instead be recorded on the Council's system and both tenants will receive written confirmation of their joint tenancy. Where assignment is not possible or practical, the Council will consider granting a new joint tenancy to replace the previous sole tenancy.

Any applications for a sole tenancy to be converted to a joint tenancy will be refused under the following circumstances:

- The household cannot provide proof of marriage or civil partnership, or of joint residency for at least 12 months prior to the application
- There is outstanding action against the household for a breach of tenancy
- There are outstanding rent arrears
- There is a history of tenancy breaches
- The tenancy has been demoted
- The applicant is already named on another a tenancy

6.2 Changing a joint tenancy to a sole tenancy

In some situations, such as relationship breakdown, a household may wish to convert their joint tenancy to a sole tenancy. This again can be managed by a deed of Assignment. It is advised tenants seek independent legal advice.

The Housing Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985. The tenants who wishes to remove themselves from the tenancy will be required to complete a Deed of Assignment.

Where an assignment cannot be agreed between joint tenants, those who are married or in a civil partnership can apply to the Family Court to transfer the tenancy.

When one of the joint tenants moves out of the home, the remaining tenant should notify the Council. After 24 months, if both joint tenants have been unable to resolve their tenancy situation, or the absent tenant has not made contact, the remaining tenant can apply to the

Council for a new replacement sole tenancy to be granted. Prior to issuing a replacement tenancy, the Council will write to the absent tenant giving 14 days' notice to object and provide evidence as to why the tenancy should not be replaced.

This is subject to:

- No applications have been made to transfer the tenancy via Assignment or Court Order
- There are no outstanding breaches against the tenancy (*this will not apply where the absent tenant was sole cause of antisocial behaviour*)
- There are no outstanding rent arrears
- The home being specifically adapted for the absent tenant (in this case an alternative home may be offered)

The remaining tenant will be asked to serve a Notice to Quit. The Council will then issue a replacement tenancy.

6.3 Change of name

Tenants who change their name will need to provide evidence of the change before a tenancy agreement can be updated. The Council will accept the following documents as evidence:

- Government issued documents such as Passport or Driving licence
- Certificate of marriage, civil partnership or divorce/dissolution
- Confirmation from High Court if the change is via Deed Poll

7.0 Tackling tenancy fraud

There is a chronic shortage of Council homes across the country. In Brent, there are over 2,000 households in Temporary Accommodation. Tackling tenancy fraud is a priority for the Council.

The Council is committed to carrying out regular tenancy checks, designed primarily to deter and identify tenancy fraud in order to ensure the legitimate tenant occupies Council homes. This includes regularly using data to monitor who is living and registered to the household.

Action will be taken to evict tenants who have made false or misleading statement regarding their tenancies. The Council encourages all Brent residents and partners to help tackle tenancy fraud and report a Council tenant who they suspect:

- Have another home (including outside the UK)
- Got their home by giving false information
- Is subletting (renting) their home to someone else
- Left their home and it is now empty; or are letting others live in it
- Has applied for, or completed, the purchase of their tenancy under the Right to Buy Scheme when they are not entitled, or gave false information
- Has claimed succession on the death of a tenant and is not entitled to take over that tenancy

Tenancy fraud can be reported online [here](#) or by contacting call the Council's hotline number on 020 8937 1279. All calls are confidential and lines are open Monday to Friday, 9am to 5pm.

8.0 Monitoring & reviewing tenancies

8.1 Monitoring introductory and demoted tenancies

As stated in section 4.1, all new Council tenancies will be introductory tenancies. Throughout the 12-month introductory or demoted tenancy, the tenancy will be monitored.

Housing Officers will contact and visit introductory tenants throughout this 12-month period, specifically at 3 months, 6 months and 9 months. At 9 months Housing Officers will undertake a formal introductory tenancy review and make a recommendation on whether the tenancy should be allowed to continue, extended or terminated. This will be based on whether a tenant has paid their rent in full and on time and whether there have been reports of anti-social behaviour. Tenants will be informed in writing the outcome of their introductory tenancy review. Tenants have the right to appeal this recommendation.

During visits to the home, officers will also review how the home is being treated. Any malicious damage will be treated as a serious tenancy breach and the tenant(s) will be re-charged for any repairs carried out.

8.2 Monitoring secure tenancies

To monitor secure tenancies, the Council will undertake a programme of tenancy audits. Additionally, it will monitor contact reports from other residents flagging concerns with a tenant(s).

The Council can audit a Council home at any point. Tenants will be notified at least 24 hours in advance of a tenancy audit-taking place. The purpose of a tenancy audit is firstly to ensure the Council's records of the household and the home are up to date and accurate. During these audits, officers will be looking for the following:

- Changes to the household
- Identify households who may require support or an intervention e.g. hoarders
- Ensure the home has not been damaged or altered without permission
- Ensure pets are not being kept without permission
- Update tenancy records, including diversity data

The capturing of diversity data is essential to ensuring that the housing service can identify groups of people who may benefit from different initiatives run by the Council and its partners. An example of this is the Council's current commitment to raising the attainment and achievement of Black Caribbean boys. Tenants can update their own information using the housing portal or by contacting their housing officer. Over every four-year period, all Council homes will be audited at least once. Homes where issues or concerns are identified may be visited more than once.

The Council can carry out an unannounced tenancy audit, in response to:

- Alleged damage to the property or significant disrepair;
- Safeguarding concerns for the tenant; or
- Suspected tenancy fraud.

If when conducting a tenancy audit the Council is unable to gain access twice and has been unable to make contact within a 6-month period, the Housing Officer will start proceedings to take action in line with the [Empty property process](#).

In addition to the tenancy audits, tenants can update information about themselves and members of their household via the customer portal [\[Insert reference to customer portal\]](#). This includes listing who lives in the home or whether a member of the household has a disability.

9.0 Ending a tenancy

9.1 Ending a tenancy

If a Council tenant wants to move out of their home, they must send the Council a 'notice to quit'.

A copy of the form can be requested online [here](#) or by calling 020 8937 2400. [\[Insert reference to customer portal\]](#)

Once the Council receives the Notice to Quit, this starts the four-week notice period for the tenancy ending. All tenancies will end on a Monday. Up until the end date, tenants will be responsible for paying rent. If a tenant requires moving out earlier than the 4 week notice period, this would have to be agreed in advance with the Council. The tenant will not be allowed to enter the property after this date.

When leaving all tenants must give 'vacant possession', which means that, the tenant must leave the property:

- clean
- clear of furniture, anything else you own and all rubbish
- with no people or pets still living there

If a tenant does not leave the property clean and clear, they will be charged for the cost of cleaning and clearing out the property.

9.2 Ending a Joint tenancy

If one joint tenant ends the tenancy, the tenancy will end, even if the other joint tenant has not asked for the tenancy to end.

The Council will then at its discretion consider whether to offer a sole tenancy to the remaining tenant. This decision will be based on the remaining tenant's current circumstances e.g. vulnerability, custody of children. Where a tenancy is offered this may not be for the same home. Instead, the Council will review the housing needs of the remaining household and make an alternative offer. If this is declined, the tenancy will end.

9.3 Council termination of an introductory tenancy

If a tenant fails to pass the 12-month introductory tenancy the Council can terminate the tenancy under mandatory grounds under s.126 Housing Act 1996 at any time, subject to service of Notice and the tenants right to review. An introductory tenancy cannot be ended after the 12-month period has expired unless the introductory tenancy has been extended.

9.4 Council termination of a secure tenancy

The Council may terminate a secure tenancy by seeking possession under the grounds set out in Schedule 2 of the Housing Act 1985. If the Court grant possession to the Council and the tenant or household members have not left the property by the deadline set out by the Courts, the Council will seek a further possession order from the Court.

This includes mandatory grounds for possession for Anti-social behaviour in s.84A Housing Act 1985. If the Council ends a tenancy because of a tenancy breach, the tenant will be referred to the Council's homelessness prevention team.

9.5 Death of a tenant

In the unfortunate event of a death of a tenant, the tenancy can be transferred to an eligible family member. This is known as succession (see section 10). If there is no eligible family member wishing to succeed the tenancy the Council will end the tenancy by serving a Notice to Quit.

9.6 Development

The Council can terminate tenancies to support the development of new Council homes. The Mayor of London requires any tenants who would be affected have the opportunity to vote on whether the development goes ahead if it requires the demolition of their home. They will be offered an alternative home and given the opportunity to return to the new development once completed.

9.7 Right to appeal

All decisions including the type of tenancy offered by the Council and the length the tenancy is offered for can be appealed. Appeals should be made within 28 days of being notified of our decision directly the Housing Officer who will present the appeal to the Housing Panel.

10.0 Succeeding a tenancy

When a tenant dies, another family member may be entitled to inherit the tenancy. This is known in legal terms as a Succession.

10.1 Eligibility for Succession

Under s.87 of the Housing Act 1985, a tenancy that started before April 2012 can be succeeded by the deceased tenant's:

- husband/wife
- civil partner
- unmarried heterosexual partner
- same-sex partner
- grandfather/grandmother
- father/mother
- brother/sister
- uncle/aunt
- nephew/niece
- son/daughter
- stepson/stepdaughter
- adopted child
- grandson/granddaughter

Under s.86A of the Housing Act 1985 and s.160 of the Localism Act 2011, the following can succeed a tenancy that started on or after April 2012:

- husband/wife
- civil partner (registered under the Civil Partnership Act 2004)
- Family members under the age of 18 can succeed to a tenancy.

In such cases, a trustee would need to be agreed to hold the tenancy in trust for the child.

To succeed a tenancy, the individual must be one of the persons listed above. The deceased must also have been using the home as their main or principle home up until the date of death for at least 12 consecutive months. The successor must also have been living at the home during this period whilst married or in a civil partnership.

A succession will be refused if the applicant is unable to prove that they are a family member or that they live/had lived at the address.

If the tenancy has already been succeeded once, it cannot be succeeded again. This also applies if there has been an assignment of the tenancy, which includes assignment by mutual exchange or a property adjustment order under the Family Law Act.

If the deceased was admitted to hospital or a residential home for long-term care or treatment, then a succession cannot not take place.

Where more than one person applies for succession and there is no remaining joint tenant, priority goes to the tenant's spouse or civil partner. If there is no spouse or civil partner who qualifies, the family members must decide between them who will succeed. If they are

unable to agree, the Council will decide and this will be assessed on housing need.

10.2 Applying for a succession

If eligible to succeed a tenancy, a tenant must complete a 'request for succession' application form either and provide evidence of eligibility. This includes providing proof of the relationship to the deceased and living at the home. A copy of the form can be requested online [here](#) or by calling 020 8937 2400.

A Housing Officer will contact other organisations and agencies, and teams within the Council to confirm any of the information provided. This may include the Department of Work and Pensions (DWP) and our Council Tax and Benefits Team.

An applicant may also be asked to attend an interview. The Council acknowledges the loss of a family member is distressing and will seek to ensure any interviews are only held if absolutely necessary. Failure to attend an interview will prolong the application or result in an application being refused.

The Council will write to the applicant to confirm the outcome of their application to succeed a tenancy.

If successful, the applicant will be contacted to make arrangements to grant a new tenancy and set up their rent account. If unsuccessful, the Council will serve a Notice to Quit and remaining household members will be required to leave the property.

10.3 Discretionary tenancy

If a member of the household has no legal right to succeed, a Council tenancy they may still be granted a discretionary tenancy. This can apply if the tenancy has been succeeded once previously but the

household member has lived in the home for 10 years prior to the death of the tenant. This will not apply if the applicant will under occupy or the home is adapted and the adaptations are no longer required. Under these circumstances, the Council may offer an alternative property, which matches their housing need.

The Allocations panel will review all discretionary tenancies and determine whether a discretionary tenancy should be offered.

11.0 Mutual exchanges

The Council encourages the use of Mutual exchange for tenants who wish to downsize, upsize or want a change in location as an alternative to a transfer.

All secure tenants have a right to swap homes with another tenant under s.92 of the Housing Act 1985 (dealing with assignments) and s.158 of the Localism Act 2011 (requests for transfer).

To apply for a mutual exchange a tenant must first find a person to swap with. They can advertise in any way but it is recommended tenants use websites such as Home Swapper.

Once an exchange has been agreed between tenants, an application form must be completed. A copy of the form can be requested online [here](#) or by calling 020 8937 2400.

The Council will then process the application and inform the tenant in writing of the outcome within 42 days of receiving the application.

The Council can only refuse an application for reasons outlined in legislation (The Housing Act 1985 and the Housing Act 2004) these will be outlined if an application is refused.

Applications will not be approved if it would result in a Council home being under-occupied or overcrowded. However, where a Brent Council tenant has registered to downsize to a smaller home, they are permitted to have one room more than their housing need.

The Council will not allow mutual exchanges to take place if there are outstanding rent arrears or are in the process of taking action against the tenant.

12.0 Monitoring and review of policy

This Tenancy Policy will be subject to annual reviews and any changes will be approved by the Council's Cabinet. Amendments at other times will be made through the local decision making process. Any major changes will be consulted upon before a decision is taken to implement them.