

Camden's Tenure Policy – October 2012

1. Purpose

- 1.1 This policy has been developed in response to a requirement, contained in the regulatory framework for social landlords which took effect in April 2012,¹ that landlords should “publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud, and set out:
- a) the type of tenancies they will grant;
 - b) where they grant tenancies for a fixed term, the length of those terms;
 - c) the circumstances in which they will grant tenancies of a particular type;
 - d) any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period;
 - e) the circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property;
 - f) the way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term;
 - g) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability;
 - h) the advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy; and
 - i) their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.”
- 1.2 The Council already has policies that outline its approach to tenancy management and sustainment, including tackling tenancy fraud. (These include its [Housing Strategy](#), its [tenancy conditions](#), and its [Tenants' Guide](#).) This policy is therefore limited to addressing points (a) to (i) of the requirement above.

2. Context

- 2.1 The need for the Council and other social landlords to state their position on these points arises from the [Localism Act 2011](#). The Localism Act:
- allowed social landlords to grant **fixed term tenancies** for new (but not existing) tenants from 1 April 2012, subject to meeting conditions around the length of fixed terms,² having clear criteria for their extension or termination in place, giving tenants the right to request a review of a decision to terminate their tenancy, and providing advice on and assistance with securing alternative accommodation;

¹The Revised Regulatory Framework for Social Housing in England from April 2012. Tenant Services Authority. March 2012. Available at <http://www.tenantservicesauthority.org/server/show/ConWebDoc.21851>

² These are expected to last for at least five years, or at least two years in exceptional circumstances.

- for tenancies starting on or after 1 April 2012, removed the legal right to inherit the tenancy of a deceased Council tenant with whom they had lived for at least 12 months prior to the tenant's death from members of the deceased tenant's family, other than from his or her spouse, civil partner or other resident partner, but also allowed local authorities to permit relatives or others who have lived with a tenant to inherit a tenancy, including permitting this in cases where the deceased tenant was a successor, by specifying this as a condition of their tenancy – something referred to as “discretionary succession”.

3. Tenancies granted

- 3.1 The London Borough of Camden will not make use of fixed term tenancies for some or all new tenants, but will continue to use **secure tenancies**. Such tenancies are granted under the Housing Act 1985. Under their terms, the Council can only secure possession of a property where it is able to prove that it has grounds to do so - for example, because a tenant is in rent arrears, has broken their tenancy conditions, is behaving anti-socially, or has obtained the tenancy fraudulently.
- 3.2 For new tenants, including previous social housing tenants moving into a Council home where time has passed since the end of their previous tenancy, the Council will issue **introductory tenancies**. These are granted under the Housing Act 1996. They run for a trial period of one year, after which time the tenancy automatically becomes secure, unless the Council takes action to end the tenancy during the introductory period or to extend that period by up to six months – for the same sorts of reasons for which it would seek possession of a secure tenancy. The Council has used these tenancies for new tenants since April 2008. They do not give tenants the rights enjoyed by secure tenants to exchange homes, sub-let part of their home or take in lodgers, improve their home, or to buy their home.
- 3.3 The only exception to this position would be in rare circumstances where a fixed term tenancy would be of benefit to the prospective tenant(s), its use is agreed with them, and the fixed term tenancy is issued with an agreement that, subject to keeping the conditions of their tenancy, the tenant(s) will subsequently be issued a secure tenancy.³

4. Discretionary succession rights

- 4.1 For tenancies starting on or after 1 April 2012, the Council will grant discretionary succession rights to those from whom the Localism Act 2011 removed the statutory right to succeed – that is, a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the deceased tenant, who has lived him or her as their only or principal accommodation for at least 12 months prior to his or her death. This right will be captured in the Council's tenancy conditions.

³ A recent situation in which this might have applied involved a secure Council tenant who wished to move from a four bedroom property to a smaller home, subject to the Council granting a joint tenancy to her two sons, aged 17 and 20. Because he was not yet 18, the younger son could not hold a tenancy. In this situation, it would have been to his advantage, his mother's and the Council's to issue a fixed term tenancy to the older son for two years (the minimum fixed term allowed), on the understanding that the sons would be issued a joint secure tenancy after the initial fixed term.

- 4.2 Where more than one relative may qualify to succeed, only one may do so.
- 4.3 For tenancies starting on or after 1 April 2012, the Council will not grant discretionary succession rights where the deceased tenant is a successor. This is intended to maximise the consistency between the entitlements attached to tenancies that started before 1 April 2012 and those that started on or after that date.
- 4.5 In addition, as set out in its [Allocations Scheme](#), the Council may grant a tenancy, for either the property occupied by the deceased tenant or another, smaller Council or housing association home, in the following circumstances, to those who have lived with the deceased tenant prior to his or her death for the period of time specified and who fall into one of the following groups.

Circumstance	Group	qualifying period	
		if tenancy started prior to 01/10/07	If tenancy started on or after 01/10/07
Where the deceased tenant was a successor, so no further succession can take place:	<ul style="list-style-type: none"> deceased tenant's spouse, civil partner or partner 	12 months	12 months
	<ul style="list-style-type: none"> deceased tenant's grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece 	12 months	5 years
	<ul style="list-style-type: none"> another member of the deceased tenant's household who was named on the tenancy agreement at the start of the tenancy 	12 months	5 years
The deceased tenant received care from an unpaid carer due to illness, disability or old age.	<ul style="list-style-type: none"> the deceased tenant's carer, at the discretion of the head of Tenancy Services and taking into account the following factors: <ul style="list-style-type: none"> whether the carer gave up permanent accommodation to care for the tenant, how long the carer has lived at this and previous addresses, the age of the carer, 	12 months	

	<ul style="list-style-type: none"> ○ the degree of dependency that existed between the carer and the tenant, and ○ any hardship to the carer that would be caused if s/he was not granted a tenancy. 	
The deceased tenant's tenancy started on or prior to 31 March 2012.	<ul style="list-style-type: none"> ● a partner of deceased tenant who is neither their spouse nor their civil partner and therefore has no statutory right to succeed 	12 months

4.7 These provisions take account of the needs of members of the families of deceased tenants who are vulnerable.

4.8 To balance these provisions against making best use of stock, a successor who was not the spouse or partner of the deceased tenant will not be allowed to remain in the deceased tenant's home if:

- it is larger than the Council's Allocations Scheme assesses the successor's household needs, or
- it was designed or adapted to be accessible to a disabled person and nobody in the successor's household needs this sort of accommodation.

The successor will instead be offered another Council property that either has the number of bedrooms the Council's Allocations Scheme assesses their household needs or is of the same size but has not been designed or adapted to be accessible to a disabled person. The Council will not ask the successor to move until at least six months after the deceased tenant's death.

5. Review of the policy

5.1 The London Borough of Camden will periodically review its Tenure Policy. In doing so, it will take account of the Tenancy Strategy that it anticipates adopting in January 2013. In line with a requirement contained in the Localism Act 2011, the Tenancy Strategy will set out "the matters to which the registered providers of social housing for its district are to have regard" in developing their Tenure Policies.