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Maidstone Borough Council

Tenancy Strategy

2021-2026

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1 Purpose of this Strategy

Maidstone Borough Council's Tenancy Strategy provides guidance on the tenancy type when providing accommodation and for Registered Providers of social housing that have housing stock within the borough. The Strategy describes the circumstances to which Registered Providers must have regard when formulating policies on these matters.

The Tenancy Strategy is to be considered in conjunction with the Homelessness Strategy and Allocation Scheme, all of which support Maidstone Borough Council's Housing Strategy. This Strategy does not provide guidance as to how social housing should be allocated as this is provided by the Council's Allocation Scheme.

Housing and Communities is a priority within Maidstone Borough Council's Strategic Plan. We want to see housing that is safe, desirable and promotes good health and well-being. This can be expressed as stable communities whose social mobility is not constricted by their tenure. This Tenancy Strategy seeks to achieve this balance through our own housing provision and that of our Registered Providers of social housing.

Registered Providers of social housing work across multiple local authority areas and this Tenancy Strategy is meant to provide guidance in the Maidstone Borough Council area only.

2 Legislative Framework

The Localism Act 2011 states that each local authority must publish a Tenancy Strategy setting out the matters to which itself and Registered Providers of social housing for its borough are to have regard for in formulating policies relating to:

- the types of tenancies they will grant
- the circumstances under which different types of tenancies will be granted
- where they elect to grant fixed-term tenancies, the length of the fixed term
- the circumstances in which they will grant a further tenancy when the fixed-term expires

For the purposes of this Strategy, Registered Providers of social housing include Maidstone Borough Council as a stock holding authority.

3 Tenancy Type and Length

Probationary/Starter Tenancy

A probationary or starter (or introductory) tenancy is normally granted for 12 months to enable the tenant to demonstrate that they can abide by its conditions. Once the probationary period is satisfactorily completed the tenancy will become more secure.

Probationary tenancies enable social landlords to obtain possession of a property more easily where there have been problems with the way in which the tenancy has been conducted. Examples include a persistent failure by the tenant to pay their rent on time and/or the tenant or a member of their household causing anti-social behaviour.

The landlord will be expected to follow the correct legal process if it decides to seek possession and Maidstone Borough Council would also encourage landlords to make use of powers granted to extend the length of probationary tenancies where there are ongoing issues surrounding the conduct of a tenant, so as to provide sufficient time to try and resolve problems. The Council also expects landlords to meet the appeal requirements of the legislation.

Excluded Licence and Non-Secure Tenancies

The Council owns and retains property specifically to be used as temporary accommodation (TA) for persons it is assisting under Part 7 Housing Act 1996. Properties being used in this way are exempted from being Secure Tenancies by virtue of the relevant legislation.

Persons accommodated whilst enquiries are made into the duty that is owed to the applicant will be provided with an excluded licence agreement.

Persons owed the main housing duty and accommodated in TA will revert to a weekly periodic non-secure tenancy.

Secure Tenancy

Secure tenancies are granted by Local Housing Authorities under Housing Act 1985. A secure tenancy can be:

- a fixed-term tenancy – where the landlord and tenant have agreed the tenancy will run for a set period of time, for example 12 months; or
- a periodic tenancy – for an indefinite period with the rent being paid on a periodic basis, for example weekly or monthly

Secure tenancies will be given to a tenant once an initial probationary tenancy has satisfactorily completed.

Maidstone Borough Council prefers to provide periodic tenancies.

Where a fixed term tenancy is granted this will be for a specific purpose e.g. supported accommodation. In these circumstances, the period of the fixed term will range between 2 and 5 years depending on the occupants and the requirements of the scheme.

Where appropriate, tenancies should be re-issued at the end of the term unless there is a change of circumstance within the household. For example, a change in financial circumstances, household composition, etc. in which case the Council may decide to offer an alternative equivalent tenancy at another address, which might be with a Registered Provider of social housing.

Assured Tenancy

Assured tenancies are granted by Registered Providers of social housing under the Housing Act 1988. An assured tenancy can be:

- a fixed-term tenancy – where the landlord and tenant have agreed the tenancy will run for a set period of time, for example 12 months; or
- a periodic tenancy – for an indefinite period with the rent being paid on a periodic basis, for example weekly or monthly

Assured tenancies are often given to a tenant once an initial probationary/starter tenancy has successfully been completed.

Maidstone Borough Council encourages its Registered Providers of social housing to provide periodic tenancies.

If the Registered Provider of social housing provides fixed term tenancies, the Council prefers a five year fixed term tenancy as the minimum for the majority of households. It would also encourage the use of a longer fixed term tenancy where a household's circumstances are unlikely to change over time. For example, people with long term health conditions.

Tenancies should be re-issued at the end of the term unless there is a change of circumstance within the household. For example, a change in financial circumstances, household composition, etc.

4 Circumstances in which Specific Tenancies will be Granted

Households with a disabled household member (adult or child)

Maidstone Borough Council encourages:

- Lifetime tenancies for households moving into extra care or designated older persons accommodation
- Minimum five year fixed term tenancies for adapted homes and general needs accommodation
- Shorter fixed term tenancies for “move on” or respite care
- Affordable rent levels at or below the Local Housing Allowance level

Registered Providers should engage other agencies involved in meeting the household's needs (e.g. social care) at the initial assessment and during the course of the tenancy.

Any decision not to reissue a tenancy should be based on clear criteria which may include changes in housing need related to disability.

Lower income households not in receipt of Universal Credit / Housing Benefit

Maidstone Borough Council encourages periodic tenancies or a minimum fixed-term tenancy of five years.

Support to households offered should their circumstances change (e.g. a household member is made unemployed)

Clear information about any additional costs associated with a tenancy (e.g. administration fees, deposits, etc)

Single and childless couples under 55

Maidstone Borough Council would prefer:

- Periodic tenancies; particularly for households who may have a continuing vulnerability (e.g. long term physical and/or mental health issues)
- Fixed-term tenancies to be for a minimum period of 5 years
- Affordable rent levels at or below the Local Housing Allowance level

Registered Providers of social housing should engage other agencies involved in meeting the household's needs (e.g. social care) at the initial assessment and during the course of the tenancy.

Any decision not to reissue a tenancy should be based on clear criteria which may include changes in housing need related to vulnerability.

Older people

Maidstone Borough Council would prefer:

- Periodic tenancies for households who whom it is likely to be their last home
- Fixed term tenancies might be appropriate to make the best use of designated or adapted accommodation, bearing in mind the individual circumstances of the tenant and their household

Registered Providers of social housing should engage other agencies involved in meeting the household's needs (e.g. social care) at the initial assessment and during the course of the tenancy.

5 Renewal or Termination of a Tenancy

The decision on whether a tenant is able to remain in social housing at the end of their fixed-term tenancy will depend on the Registered Provider's policy. Registered Providers are expected to review a fixed term tenancy six months before it is due to end to decide whether it should be renewed and must publish clear guidance on the process and assessment criteria to be used in deciding if the tenancy should be renewed.

If there has been no significant changes to the households circumstances since the beginning of a tenancy, Maidstone Borough Council would expect that a further tenancy is granted.

Reasons not to consider a further tenancy include, but are not limited to:

- Anti-Social Behaviour issues - These issues must be persistent over the lifetime of the tenancy or have been most prevalent in the last two years of the tenancy and it is considered that a change in location or living circumstances is likely to resolve the issue
- Under-Occupation - In cases where there are one or more spare bedrooms in a property the non-renewal of a tenancy will be expected to make best use of housing stock within the Borough

- Statutory Over-crowding - In cases of statutory overcrowding as currently defined by part 10 of the Housing Act 1985 s.326

6 Affordable and Social Rent

Maidstone Borough Council's published Affordable and Local Needs Housing Supplementary Planning Document states that the largest need for social housing within the borough is for Social Rent properties, as it is the tenure that deals most effectively with affordability issues.

To encourage the provision of Social Rent on new developments, Maidstone Borough Council will be flexible when considering the total number of units of affordable housing on a site to ensure the overall development remains viable

Affordable rents are typically higher than social rents, so that properties let on this basis generate additional income for investment in new affordable housing.

Maidstone Borough Council require that Registered Providers cap the Affordable Rent to Local Housing Allowance (LHA) levels if 80% of the gross market rent exceeds the LHA level.

7 Existing & Transferring Tenants

Registered Providers of social housing should ensure that any existing tenants that are moving to another property and are being offered a change to their tenancy understand the changes to their terms and any implications this may have.

Registered Providers are able to determine whether a tenant will keep their current terms but in cases of under-occupation or a tenant moving into a property which has been adapted for their specific needs, Maidstone Borough Council would recommend that if a tenant had a periodic or 'lifetime' tenancy and/or were paying social rent that this should be maintained.

In situations where a tenant is forced to leave their property under circumstances beyond their control, Registered Providers will need to strongly consider if it is appropriate to move these tenants to different terms.