

# Appendix B

Tees Valley protocol for ending a fixed-term tenancy

## Tees Valley Tenancy Strategy

Effective from November 2012 – March 2017

*(Updated March 2014)*



## Section 1: Introduction

- 1.1** Recent reform of social housing tenure has provided housing authorities and registered housing providers (RPs) with the power to offer a new form of tenancy for a fixed period of time. The primary aim of offering such tenancies, as opposed to traditional lifetime secure or assured tenancies, is to help social housing landlords balance the demand for accommodation against the supply, and to, where necessary offer some tenancies for a fixed period of time.
- 1.2** Tees Valley authorities have stated a clear preference that fixed-term tenancies be used by local RPs only as an exception, and that where possible, the security offered by lifetime assured tenancy be provided for sustainability of communities and neighbourhoods, e.g. continuity for families who establish themselves in a community (children remaining at the same school).
- 1.3** However, it is recognised that there are exceptions where circumstances prevent a lifetime tenancy being offered. Such circumstances should be included within individual tenancy policies. Examples may be found on page 13 of the tenancy strategy document.

## Section 2: Purpose of this protocol

- 2.1** The purpose of this document is to establish an agreed protocol between Tees Valley local authorities and RPs in regard to appropriate and consistent housing advice and assistance should an RP decide to end a fixed-term tenancy.
- 2.2** This protocol has been drafted having due regard to the fact that fixed-term tenants of RPs should continue to be given a high standard of service. Clear advice and information should be provided to them, ensuring informed decisions are made about their housing future, in partnership with their RP landlord. We believe this will also be of benefit to the RP, and will mitigate the risk of any challenge from the tenant about the advice they have received, in addition to minimising the potential for negative media coverage.

## Section 3: Roles and Responsibilities

### 3.1 Procedures for the review process to which local authorities expect RPs to have regard:

#### 3.1.1 Term of tenancy

RPs should not, as a matter of course, end the tenancy prior to the preferred 5-year fixed-term.

#### 3.1.2 RP review of fixed-term tenancy

It is a legal requirement to notify the tenant that the fixed-term will be coming to an end at least 6 months prior to the termination of tenancy.

However, we recommend that the review:

- Takes place between 9-12 months prior to the end of the fixed-term;
- Written notifications are issued promptly following the conclusion of the review; and
- In circumstances whereby the RP determines not to renew the tenancy, then in addition to confirming this in writing, a home visit should also be arranged to ensure the tenant is aware of the forthcoming termination, and that the opportunity to discuss future housing options with the tenant can be taken.

The review should consist of considering whether:

- The tenant(s) income exceeds the income threshold for which a mortgage is obtainable in the area;

(Note: it is strongly advised that a recognised affordability tool is used, that costs of relocation are taken into account and that up-to-date market information is used on house prices and financing products)

- The tenancy is still suitable for their needs;
- There are any relevant social factors, such as how established the household is in the area, e.g. children in local school(s); and
- The household is under-occupying their home.

The outcome of the review should not be influenced by a tenant's behaviour. Should a tenant breach their tenancy conditions, the RP should deal with this through the operation of their housing management policies.

#### 3.1.3 Review outcomes

There are three legal outcomes that may follow a fixed-term tenancy review:

1. RP decides not to renew the tenancy, and is able to provide rational evidence of how this decision was made.
2. RP decides to renew the tenancy, either as a lifetime tenancy, or for a minimum term of another 5 years.
3. RP takes no action, tenant remains in situ, and the tenancy therefore

becomes a periodic assured shorthold tenancy.

Whilst outcome 3 is available to RPs, the Tees Valley local authorities expect that this would only be an option in exceptional circumstances and where a specific rationale can be demonstrated.

#### **3.1.4 Notification of review – to the tenant and local housing authority**

The outcome of the review should be communicated in writing to the tenant at the earliest opportunity.

The decision should be understandable. It is recommended that any communication clearly states how the tenant may request an appeal against any decision not to grant another tenancy on the expiry of the fixed-term.

The tenant should also be informed of their right to be represented at any appeals panel hearing.

It is recommended that, where a decision not to renew has been made, this decision is rational, has regard to the RP's own policies and procedures, the Equalities Act and cannot be deemed to be wrong in law.

A decision not to renew a tenancy should be communicated to the relevant local housing authority at the earliest opportunity.

The RP should also notify the local housing authority of the date of any appeals panel hearing, so that they have the option to either attend and/or make representation at the agreement or request of the tenant concerned.

If there remains an unresolved housing problem, the local housing authority needs to be notified at the earliest opportunity in order to prevent homelessness.

The relevant contact details for each local authority are contained in Section 4.

All organisations will notify their partners of any changes to their relevant contact details.

*Should an RP decide to end a fixed-term tenancy, the local authorities expect that suitable alternative accommodation will be made available to the tenant. If this is not available within that RP's stock, then we would expect that they assist in facilitating the provision of alternative accommodation.*

### **3.2 Procedures for ending a fixed-term tenancy and not offering an alternative tenancy within the RP's own stock:**

#### **3.2.1 What we expect in terms of appropriate and consistent housing advice and assistance (on the ending of a tenancy)**

Advice and information provided to tenants should, as a minimum, be aligned with the RP's own tenancy policy.

It is the expectation that RPs should provide advice and information on local housing options and discuss with their tenants the following:

- Affordable homeownership schemes, if it is indicated that the tenant may be able to access these with their current level of income;
- Alternative and suitable properties within the private rented sector;
- Alternative and suitable properties within other RPs' housing stock; and
- Alternative and suitable properties within the stock of partners to the Compass choice based lettings system.

Signposting information should also be provided on:

- Finance options, where appropriate, for low cost or other home ownership schemes;
- Information on removals/ relocating assistance;

- Where to buy low cost furniture (if the tenant has been in a partly or wholly furnished fixed term tenancy);
- Decorating assistance.

It is also expected that RPs provide the contact details of local advice agencies within any correspondence to their tenants.

#### **3.2.2 Mechanism for ending fixed-term tenancies**

There are legal powers enabling tenants themselves to surrender fixed-term tenancies, by providing 4 weeks notice (if there are no outstanding housing related arrears on the account or other breach of tenancy).

Where an RP chooses not to renew a fixed-term tenancy at the end of the term, this should be undertaken in line with the new Localism Act powers.

#### **3.2.3 Appeals and review**

It is the view of Tees Valley local authorities that, on the ending of a fixed-term tenancy, each tenant should have the opportunity for a review and/or appeal of the decision.

The process that RPs are asked to follow is:

- The tenant is advised that they should request the review within 21 days of receiving the notice of proposed non-renewal;
- The tenant's request for a review must 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 of the property may be commenced;

- The review to be undertaken by a different officer of appropriate seniority, within the RP's organisation;
- The reviewer must consider if the decision was made in accordance with the organisation's policy;
- The reviewer provides, in writing, to the tenant, the reasons for their decision following the review; irrespective of whether the decision has been upheld or overturned; and
- The local authority is also notified of the outcome.



