

REVIEW OF INTRODUCTORY TENANCIES POLICY

Cabinet Member Cllr Ray Stanley
Responsible Officer Housing Services Manager

Reason for Report: The Council has been using introductory tenancies for many years. The existing policy was approved last year but recent case law has necessitated a review of the policy to bring it up to date.

RECOMMENDATION(S): The PDG recommend to Cabinet to adopt the revised Introductory Tenancies Policy.

Relationship to Corporate Plan: The Council must run the Housing Service efficiently and effectively and in accordance with the provisions of the regulatory framework.

Financial Implications: It is necessary to have a clearly stated policy relating to the use of introductory tenancies. This enables the Council to provide a more robust defence to any legal challenges relating to decisions made in connection with ending such tenancies. Such court action can result in complex, lengthy and therefore expensive hearings of long duration.

Legal Implications: The Housing Act 1996 enabled local authorities to issue introductory tenancies to new tenants. The Localism Act 2011 allows introductory tenancies to become flexible tenancies at the end of the introductory period. Wolverhampton City Council v Shuttleworth (2012) introduced some changes to the legal framework which are relevant to introductory tenancies.

Risk Assessment: Ending introductory tenancies can be problematic. Failure to amend the policy to take account of recent case law could result in Officers making mistakes which could lead to legal challenge.

1.0 Introduction

- 1.1 The Introductory Tenancy Scheme was introduced from 4 April 2004 as a means of combatting anti-social behaviour and other serious breaches of tenancy by new Council tenants.
- 1.2 All tenants are granted introductory tenancies when they first move into their homes unless they have held a social tenancy immediately beforehand. At present, they become secure tenants after twelve months if the Council has not commenced possession proceedings during that period.
- 1.3 There is a specific expectation within the Tenancy Standard that the Council must publish a clear and accessible policy which outlines its approach to tenancy management and which sets out the type of tenancies it will grant and the circumstances in which it will grant tenancies of a particular type. This is included in the tenancy policy.

- 1.4 In addition, the Tenancy Standard states that where registered providers use probationary tenancies, these shall be for a maximum of 12 months, or a maximum of 18 months where reasons for extending the probationary period have been given and where the tenant has the opportunity to request a review.
- 1.5 The Housing Service has a detailed set of procedures relating to the use of introductory tenancies.
- 1.6 However, recent case law has necessitated a review of the existing policy and procedures. In *Wolverhampton City Council v Shuttleworth* (2012), it emerged that a Council can stipulate to the tenant the manner in which a request for a review of the decision to seek possession should be made. However, if the request from the tenant is made in another manner, the Council still has to act on it.

2.0 **Changes to the Policy**

- 2.1 The case law introduced a number of changes:
- Requests for a review of the decision to end an introductory tenancy do not need to be made in writing so tenants can make a phone call to appeal the decision. Officers will treat such telephone calls as review requests and will endeavour to complete the form with them whilst they remain in conversation.
 - If possession is to be sought, the case must be started in Court by the issue of proceedings before the twelve month tenancy term expires. The twelve months runs from the date of possession, which is the date on which the tenant was given the keys and not the date on which the tenancy started.
 - To extend an introductory tenancy, the relevant Notice needs to be served at least eight weeks before the twelve month expiry date.
 - If the tenant requests a review of the decision to extend the introductory tenancy, they must be given ten days' written Notice of the review date.
- 2.2 The policy has been revised in such a way as to take account of these changes.

3.0 **Tenant Involvement**

- 3.1 The revised policy was discussed at the meeting of the Scrutiny and Improvement Group (SIG) on 10 October 2013 and the Group did not raise any concern about it.

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Circulation of the Report: Councillor Ray Stanley

Mid Devon District Council

Housing Services

**Introductory Tenancies
Policy**

March 2012 V1.1

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PART 1: Statement of Policies

POLICY STATEMENT

Mid Devon District Council (MDDC) uses introductory tenancies and the purpose of this policy is to ensure that they are used effectively and fairly.

Introductory tenants do not have all the same rights as flexible and secure tenants and consequently this policy should be read in line with other MDDC policies including flexible tenancies, succession and assignment, improvements to Council properties, anti social behaviour and also the Tenancy Agreement.

Unless there is significant change beforehand, the next review of this policy is due April 2016 and every four years thereafter.

GENERAL INFORMATION

An introductory tenancy is a 12-month 'trial period' tenancy issued to all new tenants who accept the offer of a tenancy in one of MDDC's properties. They will not be issued to tenants who transfer or to tenants undertaking a mutual exchange.

This type of tenancy enables MDDC to closely monitor the 'trial period' of a tenancy. If the tenant complies with the conditions of the tenancy agreement, they will automatically become a flexible or secure tenant after 12 months, depending on their tenancy agreement.

SUSTAINING TENANCIES

MDDC will ensure where possible that tenants have the capacity to sustain their tenancies.

It is important for MDDC to take any vulnerabilities into account when signing up new tenants. MDDC is attempting to provide housing for those in greatest need and to help tenants sustain their tenancies. Every effort is made to identify any support needs in order to ensure where possible assistance is available during the course of a tenancy.

At the sign-up stage, all introductory tenants will be provided with a tenant handbook for guidance and useful information. Housing Management Staff will also discuss the tenancy with the tenant and explain the legal status of the introductory tenancy. Introductory tenants do not have the same protection in a County Court as other tenure types and Housing Management Staff need to ensure that tenants are aware of this.

Housing Management Staff will undertake post sign-up visits within six weeks of the sign-up to ensure the tenant is adhering to the tenancy terms and address any issues.

Tenants will be expected to abide by their tenancy agreement and the policies set out by MDDC.

If during the probationary period, there is any cause for concern; Housing Management Staff will approach the tenant in an attempt to discuss any difficulties. Housing Management Staff will work with the tenant and other agencies (if applicable) to try to resolve any breaches. However, if they are not resolved or are of a serious nature for reasons including non-payment of rent, anti-social behaviour and other serious breaches by the tenant, a visitor or a member of their household, based on MDDC investigation processes a decision can be made to:-

- extend the Introductory Tenancy for a period of 6 months (therefore an 18 month introductory tenancy in total); or
- terminate the Introductory Tenancy.

Each case will be decided on its own merits and circumstances and this policy will be applied accordingly.

SERVING NOTICE DUE TO TENANCY BREACHES

In cases where there is sufficient evidence to warrant Housing Management Staff commencing action by serving notice on the tenant, a Notice of Possession Proceedings will be issued. This Notice will be served where appropriate at any time during the course of the introductory tenancy..

In addition to the notice, the tenant will be informed in writing of their entitlement to appeal against MDDC's decision within 14 days of the service of the notice. Clear written guidance will be provided to the tenant regarding this process. Appeal panels will be heard by independent senior officers of MDDC to embolden equality.

Where processes have been followed and any complaints have been responded to in line with the complaints procedure, eviction will be pursued if this is felt to be the most appropriate action. Where eviction proceedings are not upheld by the panel, Housing Management Staff will need to further discuss remedies and discuss the way forward for the tenant with regards to maintaining their tenancy.

Prior to the service of notice and subsequent eviction proceedings, MDDC will have provided tenants with the opportunity to resolve all issues that lead to this action being taken.

DECISION TO EXTEND THE PROBATIONARY PERIOD OF A TENANCY

Housing Management Staff may choose to extend the probationary period of a tenancy. This will be in cases where there is sufficient evidence for concern to be raised by Housing Management Staff, but where it would not warrant notice being served on the tenant. This may be for several reasons including, for example, when to serve notice would be detrimental to the tenant's health or where the breach of tenancy is of a relatively minor nature.

A tenant will be informed in writing of the decision to extend an introductory tenancy within the 12 month probation period. If extended, at the end of the 18 month trial period, the introductory tenant will automatically become a

flexible or secure tenant unless possession proceedings have commenced. However, where breaches are not remedied or a further breach occurs, MDDC may decide to commence possession proceedings.

RESPONSIBILITIES UNDER THIS POLICY

In implementing this policy, MDDC's overall objectives are to:

- Ensure that tenants understand why MDDC use introductory tenancies
- Provide a fair and open system setting clear guidelines in relation to the expected behaviour of new tenants
- Help sustain new tenancies where they are failing
- Enable MDDC to deal effectively with breaches of tenancy agreements at an early stage
- Deter tenants from behaving anti-socially
- Encourage regular payment of rent

Mid Devon District Council

Housing Services

Introductory Tenancy Policy

September 2013

Version Control

Title: Introductory Tenancy Policy

Purpose: To outline the Council's position on Introductory Tenancies

Owner: Housing Services Manager

Date: September 2013

Version Number: 2

Status: Draft

Review Frequency: 4 yearly

Next review date: September 2017

Consultation

This document obtained the following approvals:

Who	Date	Version Approved
SIG		
Management Team		
Decent and Affordable Homes PDG		

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Policy Statement

Mid Devon District Council (MDDC) uses introductory tenancies and the purpose of this policy is to ensure that they are used effectively and fairly. Introductory tenants do not have all the same rights as flexible and secure tenants and consequently this policy should be read in line with other MDDC policies including flexible tenancies, succession and assignment, improvements to Council properties, anti social behaviour and also the Tenancy Agreement.

Unless there is significant change beforehand, the next review of this policy is due September 2017 and every four years thereafter.

General Information

An introductory tenancy is a probationary tenancy with a 12-month 'trial period' issued to all new tenants who accept the offer of a tenancy in one of MDDC's properties. They will not be issued to tenants who transfer, unless they have an introductory or starter tenancy, or to tenants undertaking a mutual exchange.

This type of tenancy enables MDDC to closely monitor the 'trial period' of a tenancy. If the tenant complies with the conditions of the tenancy agreement, they will automatically become a flexible or secure tenant after 12 months, depending on their tenancy agreement.

Responsibilities under this policy

In implementing this policy, MDDC's overall objectives are to:

- Ensure that tenants understand why MDDC use introductory tenancies
- Provide a fair and open system setting clear guidelines in relation to the expected behaviour of new tenants
- Help sustain new tenancies where they are failing
- Enable MDDC to deal effectively with breaches of tenancy agreements at an early stage
- Deter tenants from behaving anti-socially
- Encourage regular payment of rent

Sustaining Tenancies

MDDC will ensure where possible that tenants have the capacity to sustain their tenancies. It is important for MDDC to consider any vulnerability when signing up new tenants. MDDC is attempting to provide housing for those in greatest need and to help tenants sustain their tenancies. Every effort is made to identify any support needs in order to ensure, where possible, help is available during the course of a tenancy.

At the sign-up stage, all introductory tenants will be provided with a tenant handbook for guidance and useful information. Housing Management Staff will also discuss the tenancy with the tenant and explain the legal status of the introductory tenancy. Introductory tenants do not have the same legal protection in a County Court as other tenure types and Housing Management Staff need to make sure tenants are aware of this.

Housing Management Staff will undertake post sign-up visits within six weeks of the sign-up to ensure the tenant is adhering to the tenancy terms and address any issues.

Tenants will be expected to abide by their tenancy agreement and the policies set out by MDDC.

If during the probationary period, there is any cause for concern; Housing Management Staff will approach the tenant in an attempt to discuss any difficulties. They will work with the tenant and other agencies (if applicable) to try to resolve any breaches. However, if they are not resolved or are of a serious nature for example non-payment of rent, anti-social behaviour or other serious breaches MDDC can:

- extend the Introductory Tenancy for a period of 6 months (therefore an 18 month introductory tenancy in total); or
- end the Introductory Tenancy.

Each case will be decided on its own merits and circumstances and this policy will be applied accordingly.

Requests for a review of the decision to end an introductory tenancy do not need to be made in writing so tenants can make a phone call to appeal the decision. Officers will treat such telephone calls as review requests and will endeavour to complete the form with the tenant whilst they remain in conversation.

Serving Notice to end the Introductory Tenancy due to tenancy breaches

In cases where there is sufficient evidence to warrant commencing action by serving notice on the tenant, a Notice of Possession Proceedings will be issued. This Notice can be served, where appropriate, at any time during the course of the introductory tenancy. Court action can only be taken to end an introductory tenancy if the case is started in the Courts by the issue of

proceedings before the end of the introductory tenancy term. The tenancy will carry on as an introductory tenancy until the court case is determined.

Paperwork accompanying the notice, will inform the tenant of their right to request a review of MDDC's decision to serve notice. The request for the review must be made within 14 days of the service of the notice. Clear written guidance will be provided to the tenant regarding this process. Senior officers of MDDC, not involved in the decision to serve notice, will carry out the review.

Where processes have been followed, eviction will be pursued if this is felt to be the most appropriate action by the review panel. Where the panel does not uphold eviction proceedings, Housing Management Staff will need to discuss the way forward for the tenant about maintaining their tenancy.

Prior to the service of notice and subsequent eviction proceedings, MDDC will have provided tenants with the opportunity to resolve all issues that lead to this action being taken.

Decision to extend the probationary period of a tenancy

Housing Management Staff may choose to extend the probationary period of an introductory tenancy for a further 6 months. This will be in cases where there is sufficient evidence for concern, but where it would not warrant possession proceedings being taken against the tenant. This may be where the breach of tenancy is of a relatively minor nature.

A tenant will be served a notice of the decision to extend an introductory tenancy within the 12 month probationary period. The notice can be served no later than 8 weeks before the end of the 12 month trial period.

Paperwork accompanying the notice, will inform the tenant of their right to appeal against MDDC's decision to serve notice. The request for the review must be made within 14 days of the notice being served. Clear written guidance will be provided to the tenant regarding this process. Senior officers of MDDC, not involved in the decision to serve notice, will carry out the review.

To extend an introductory tenancy, the relevant Notice needs to be served at least eight weeks before the twelve month expiry date.

If the tenant requests a review of the decision to extend the introductory tenancy, they must be given ten days' written Notice of the review date.

If the tenancy is extended, at the end of the 18 month trial period, the introductory tenancy will automatically become a flexible or secure tenancy. However, where breaches are not remedied or a further breach occurs, MDDC may decide to commence possession proceedings.