

## **Draft Tenancy Policy**

### **1. Introduction**

- 1.1. This policy refers to the Council's dwelling stock managed by Shropshire Towns and Rural (STAR) Housing.

### **2. Tenancy types**

- 2.1. As a Registered Provider, Shropshire Council and STAR Housing have to meet the [Tenancy Standard](#). We must also meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.
- 2.2. All new tenants will be given a twelve-month Introductory Tenancy. This is a weekly periodic introductory tenancy which lasts twelve months. Should the tenant/tenancy be identified as at risk prior to or during the introductory tenancy, STAR Housing will make a referral for housing support.
- 2.3. Introductory tenancies automatically become Lifetime Secure Tenancies at the end of the introductory term if all tenancy conditions are being adhered to.
- 2.4. Where a tenant does not satisfactorily conduct their introductory tenancy, STAR Housing will provide support and clear information during each stage of the breach. STAR Housing will make a decision whether to seek possession through the courts or extend the introductory tenancy for a further six months depending upon the merits of each case. Each tenant has a right for the decision to be reviewed if notice is given to end the tenancy.
- 2.5. The review will be heard by an independent panel of Shropshire Council Members to ensure that the decision has been fairly and rightly made in accordance with the Shropshire Introductory Tenancy policy.
- 2.6. Transferring Registered Provider tenants on Lifetime Secure or Assured Tenancies will be given Lifetime Tenancies.
- 2.7. Tenants who have Flexible Tenancies issued under the April 2015 Tenancy Policy will automatically become Lifetime Tenants at the end of the five-year term (unless unresolved breaches of tenancy or possession proceedings have commenced).

### **3. Succession**

#### ***Tenancies prior to 1st April 2012***

- 3.1. Secure tenants whose tenancy began prior to 1st April 2012 will usually have the right for their spouse, civil partner or another family member to succeed to their tenancy upon their death. A person is qualified to succeed a tenant if he/she occupies the property as his/her only or principal home at the time of the tenant's death and is either the tenant's spouse or civil partner or is another member of the tenant's family and has lived with the tenant for at least twelve

months prior to their death. This does not need to have been in the same property. For the purposes of the law a cohabiting partner is regarded as a family member. Family member also includes a parent, grandparent, child, brother or sister, aunt/uncle and nephew or niece.

- 3.2. Where there is more than one person who may have a right to succeed, then if the tenant was married, their spouse takes precedence. If the tenant was not married, then the family members must decide who succeeds. If they cannot decide, then STAR Housing can choose. There is only one right in law to succeed.

### ***Tenancies from 1 April 2012***

- 3.3. In accordance with the Localism Act 2011, from 1st April 2012 new secure tenants will continue to be limited to one succession to a spouse or partner only. Children and other members of the tenant's family will no longer have an automatic legal right to succeed.

## **4. Assignment**

- 4.1. By law the Council can only assign properties on mutual exchange, as part of matrimonial or civil partnership proceedings, or to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment. A secure tenancy cannot be assigned in any other circumstance.
- 4.2. In situations where a tenancy is held by joint tenants, and where both joint tenants confirm in writing that one of them wishes to transfer their interest in the joint tenancy to the other party, then STAR Housing will agree to the transfer so long as there are no outstanding tenancy breaches, and there are no current tenancy enforcement proceedings in the County Court. A transfer of tenancy in these particular circumstances will take effect as the grant of a new tenancy agreement, it will not be an assignment.
- 4.3. Where a sole tenant requests that an additional name be added to their tenancy this can only be achieved through the surrender of the original tenancy and grant of a new tenancy in joint names. STAR Housing may agree to this so long as there are no outstanding tenancy breaches, and there are no current tenancy enforcement proceedings in the County Court. The request is unlikely to be granted if there has already been a succession on the tenancy. Both parties will need to confirm their wishes in writing and each case will be viewed on its own merits.
- 4.4. In the case of a mutual exchange, it is important that, in line with the Localism Act 2011, all Registered Providers ensure that a tenant who wishes to transfer and has a secure or assured tenancy which began before 1 April 2012 will retain similar security of tenure to that of their original tenancy. For example, a tenant with a lifetime secure or assured tenancy which began before 1 April 2012 retains a similar level of security even if they exchange with a tenant with a fixed term or flexible tenancy.

## **5. Rent setting policy**

- 5.1. Council rents are set in line with the Regulator of Social Housing's [Rent Standard](#).
- 5.2. The majority of Council owned housing is let on social rents, however, social housing delivered or acquired since 2012, where the Council has received social housing grant from Homes England (or its predecessor the Homes and Communities Agency), has spent useable Right to Buy receipts or acquired dwellings on private sites provided as planning gain, will have Affordable Rents. In addition, under the Affordable Homes Programme (AHP) 2011-15 the Council agreed to convert 241 dwellings from social to Affordable Rent on re-let, the additional borrowing to be used to subsidise the Council's AHP 2011-15 development programme.
- 5.3. Irrespective as to whether a development is subject to a Section 106, the Council ensures that Affordable Rents are initially set at no higher than the relevant Local Housing Allowance (LHA) and will be capped at the LHA at the annual rent increase. On re-let the Affordable Rent, may be re-based at 80% of the local open market rent level but will be capped by the relevant LHA.
- 5.4. Social and Affordable Rent increases remain subject to central Government rent setting policy - the Government sets out limits on annual rent increases, this being CPI plus 1%, with rent caps applying a maximum ceiling on the Formula Rent. At the end of August 2022, the Government launched a consultation on the rent cap – proposing that the ceiling be 5% for 2023-24 and for this to apply to all Social and Affordable Rents.

## **6. Tenancy Fraud**

- 6.1. Tenancy fraud is taken very seriously, and residents are actively encouraged to report suspected tenancy fraud. STAR Housing will use the tenancy audit process to proactively identify any fraudulent activity. When tenancy fraud is identified Shropshire Council and STAR Housing will take appropriate and necessary action.

## **7. Policy Review**

- 7.1. This policy will be reviewed following relevant changes in legislation and in any case no longer than every five years.