Solihull Council Tenancy Policy 2025-2030

Solihull Community Housing
Shaping our neighbourhoods

Solihull Metropolitan Borough Council

Contents

1. Introduction…….. 1
2. Scope…… 1
3. Policy Statement……. 1
4. Demoted Tenancies…… 4
5. Tenancy Reviews…… 4
6. Ending a fixed-term tenancy……. 5
7. Review of a Decision…….. 6
8. Rent setting…….. 6
9. Tenancy sustainment……. 7
10. Succession……... 7
11. Mutual Exchange and Assignment…….. 8
12. Tenancy fraud…… 10
13. Equalities considerations……. 10
14. Communicating the tenancy policy…… 10
15. Policy review…….. 11

Appendix A: Tenancy Types offered by the Council…….. 12
Appendix B: Tenancy Rights…….. 13

1. Introduction

1.1 The regulatory framework for Social Housing in England is set out in the Social Housing Regulation Act 2023 and is regulated by the Regulator of Social Housing through a set of standards that require a range of outcomes. The Tenancy standard sets out an expectation for all Local Authorities in England to publish a Tenancy Policy.

1.2 Solihull Metropolitan Borough Council (Solihull Council) is committed to ensuring that the services it delivers are tailored to the needs of the local communities served and to meeting the requirements of the Tenancy Standard by publishing an accessible Tenancy policy.

1.3 Solihull Community Housing (SCH) manages and maintains council homes and delivers housing services on behalf of Solihull Metropolitan Borough Council (SMBC). Although SCH provides day-to-day housing services, the Council remains the owner of the housing stock and is your landlord. The Council retains responsibility for ensuring your home is managed in line with the Consumer Standards.

2. Scope

2.1 This policy sets out the Council's approach to tenancy management and applies to all existing and new tenants of the Council.

2.2 Tenancies of Council-owned homes are granted on behalf of the Council by Solihull Community Housing (SCH), which is a Council-owned 'arms - length' management organisation (ALMO).

2.3 The grant of a new tenancy normally follows the allocation of a council or SCH home through the housing register. The council's housing register is known as Solihull Home Options (SHO) and is a choice-based lettings scheme.

3. Policy Statement

3.1 The Localism Act 2011 introduced the statutory requirement for a local authority to publish a Tenancy Strategy.

3.2 As set out in the Tenancy strategy 2025-2030, Solihull Council believes that the provision of lifetime (periodic) secure tenancies are in most circumstances the best option for our social housing. This will balance support for tenants with supporting stable communities and making the best use of the housing stock.

3.3 There are four types of occupancy agreements that will be granted for Solihull Council owned social housing:

- Introductory Tenancies
- Secure (Periodic) Tenancies
- Flexible (Fixed-Term) Tenancies
- Non-Secure Tenancies

3.4 A summary of the types of tenancies and circumstances in which they will be used are provided in appendix A.

3.5 The statutory rights for each type of tenancy are set out in appendix B. The Council has decided to add to these rights in some circumstances.

Introductory Tenancy

3.6 The majority of new Solihull Council tenants will be introductory tenants for 12 months.

3.7 Introductory tenants do not have the same rights as secure tenants. They are not allowed to buy or acquire their home, vote to change their landlord, exchange their home (mutual exchange), take in a lodger, assign their tenancy, sublet, or make any alterations to their home unless there are exceptional circumstances.

3.8 An introductory tenancy may be ended if the terms of the tenancy agreement are broken. This includes criminal activity, antisocial behaviour and rent arrears. Where there are issues with the conduct of the tenancy, which are not sufficiently serious to end it, we may extend the introductory period for six months and then review again.

3.9 At the end of an introductory tenancy, if there have been no issues a secure (periodic) tenancy will be granted. The exceptions are tenants who live in certain types of properties as set out in the table in paragraph 3.12. A flexible fixed-term tenancy is offered in these limited circumstances.

Secure Periodic Tenancy

3.10 The Council will primarily let homes within its permanent housing stock on a "tenancy for life" basis, following successful completion of an introductory tenancy.

3.11 Social housing tenants who are transferring from an assured or secure periodic tenancy to another will retain their security of tenure.

3.12 Tenants with a secure periodic (lifetime) tenancy can stay in their property unless they decide to move, or if the council seeks possession because of a breach of the tenancy agreement, or if a joint tenant brings the tenancy to an end by giving notice.

Flexible (fixed-term) Tenancy

3.13 Section 154 of the Localism act 2011 gives local authorities the power to offer flexible fixed-term tenancies. A flexible tenancy is a type of secure tenancy for a fixed-term of not less than two years.

3.14 From April 2025, the Council will offer a flexible fixed-term tenancy for a defined number of properties where this tenancy type will enable the Council to make best use of its housing stock. This will include circumstances where allocations to the property are for a defined group or limited time. The length of new fixed-

term tenancies will be dependent on the circumstances and are outlined in the table below:

Circumstances	Length of Fixed-Term Tenancy
Large properties (4+ bedroom homes)	An initial fixed-term of 10 years will be offered. Following review, a 5 year fixed-term will be offered.
Properties set aside for specific purposes (e.g. supported housing schemes)	2 - 5 years depending on the purpose of the accommodation

3.15 The Domestic Abuse Act 2021 supersedes this policy, and a fixed-term tenancy cannot be granted to a person who is or was a secure or assured tenant if they, or a member of their household has experienced domestic abuse and the new tenancy is granted in connection with that abuse.

3.16 This policy will apply from 1 April 2025 and new tenancies will be granted in accordance with this policy from that date forward. Existing secure tenants will retain their secure tenancies. Existing flexible tenants who do not live in a property defined under 3.12 above will have their tenancies converted into secure tenancies. This will be on or before the end of their existing flexible tenancy. Existing flexible tenants who live in a property defined under 3.12 will have their tenancy reviewed at the end of their current flexible tenancy and if eligible, have a new flexible tenancy granted.

Non-Secure Tenancies

3.17 Non-secure tenancies/licences will only be used by Solihull Council for temporary housing needs where appropriate and necessary. This will be in line with the exemptions set out in Schedule 1, Housing Act 1985 and may include the following circumstances:

- Short-term or emergency accommodation provided for people who are homeless pending the outcome of homelessness applications under Part 7 of the Housing Act 1996.
- Temporary housing for tenants being decanted from properties undergoing redevelopment or demolition.

3.18 Tenants in non-secure tenancies will be supported with pathways to longer-term housing solutions, such as secure or flexible tenancies or private sector housing.

4. Demoted Tenancies

4.1 Demoted Tenancies are one of a range of methods that will be used to manage tenants who participate in or create anti-social behaviour.

4.2 If a secure tenant, a member of their household, or a visitor, carries out acts of anti-social behaviour, the Council can apply to a court for a Demotion Order. A Demotion Order has the effect of terminating a secure tenancy and replacing it with a demoted tenancy.

4.3 To obtain such an order the judge must agree that it is reasonable to demote the tenancy based on the facts of the case. Should the demoted tenant continue to breach the tenancy conditions, an application for a possession order may be made.

4.4 A Demoted Tenant will lose some tenancy rights, including:

- The right to buy scheme
- The right to exchange your home with another tenant
- Assignment (there is one exception to this when a judge gives a Property Adjustment Order at Court during matrimonial disputes or cases involving access to children. Any transfer of the tenancy is completed as an Assignment)

4.5 Demoted tenancies will usually last for 12 months; however, they can be extended if legal action has begun.

4.6 If a tenant fails to comply with the terms of their demoted tenancy during the duration of the demotion order, SCH can apply to the court for an order giving them the right to evict the tenant from the property.

5. Tenancy Reviews

5.1 All introductory and fixed term tenancies will be subject to review.

5.2 A review will take place during the introductory tenancy and in the final year of the fixed-term to consider whether a new tenancy should be offered at the same or another property, and what type of tenancy it will be.

5.3 We will contact tenants before the fixed-term tenancy expires and review no later than nine months before the tenancy expires.

5.4 Following the review the following outcomes are possible:

- Tenant(s) will be offered a new fixed-term tenancy at the same address. The length of the fixed-term will be made on a case-by-case basis but should be a minimum of two years.

- If a property with four or more bedrooms has become under occupied, an alternative property will be offered, to free up the property for another household. The size of property offered will be assessed in accordance with the Housing Allocation Scheme.
- Tenancy ended: where the tenant is in breach of their tenancy agreement and/or there is an existing court order (including a possession or closure order) in place in relation to the property.
- Tenancy ended: this will apply where a property was only available for a time limited period. Tenants will be offered advice and assistance to find alternative accommodation or may be made an alternative offer of social housing if eligible and qualify under the Housing Allocation Scheme.

6. Ending a fixed-term tenancy

6.1 Any decision not to offer a new fixed-term tenancy at the same property will be made by a senior officer following the review.

6.2 A Notice of Non-Renewal will be served at least six months before the tenancy is due to end setting out:

- That the Council/SCH does not propose to grant a further tenancy on expiry of the term;
- Why no further tenancy is being granted;
- That the tenant has a right to appeal, how they can do this and the timescales for appealing.

6.3 This notice will not expire before the end of the fixed-term.

6.4 A Notice Requiring Possession will then be served on the tenant giving at least two months' notice that possession is required. This can be served at any time until the last day of the tenancy. If the tenant does not move out on the last day of the tenancy, a court order will normally be applied for to end the tenancy.

6.5 SCH will ensure that appropriate advice and assistance is provided through the Housing Options service to ensure tenants are aware of the different housing options available to them and all reasonable steps are taken to prevent them from becoming homeless.

6.6 Tenants can end their tenancy by giving SCH 28-days' notice (in writing) of their intention to leave the property.

6.7 If one joint tenant terminates the tenancy, but the other joint tenant wishes to remain in the property, SCH will consider whether to grant a new sole tenancy, either in the same property or in another suitable property. A new tenancy will only usually be offered if the tenant would be eligible for the property if he or

she had bid for it under the Housing Allocation Scheme, and the property is suitable to meet the needs of the remaining tenant and his or her household.

7. Review of a Decision

7.1 All prospective tenants have the right to ask us to review any relevant decision. A relevant decision means a decision:

- To offer a fixed-term tenancy;
- Any decision about the length of the term of the tenancy.

7.2 Fixed-term, demoted and introductory/starter tenants may request a review of a decision to seek an order for possession.

7.3 Introductory/starter tenants have the right to request a review of a decision to extend the initial 12-month period by another six months.

7.4 Secure/assured tenants have the right to request a review of a decision to seek a demotion order.

7.5 In line with the requirements of the Localism Act 2011, a review request must be made within 21 days of being notified of the relevant decision. The review can be requested in writing, by telephone or in person and should ideally set out why the tenant considers the decision is not in line with the Tenancy Policy. A review about any aspect of a fixed-term tenancy must always be made in writing.

7.6 The review will usually be considered within 21 days unless more information is needed to make the decision and could not reasonably be obtained within the 21 days.

7.7 A person who is senior to the officer who made the original decision will carry out the review. They will not have been involved in the decision.

7.8 Whilst the review is being considered, the tenant or prospective tenant is expected to move into the property with the tenancy term and type offered. Any necessary amendments will be made retrospectively, subject to the outcome of the review.

8. Rent setting

8.1 The Council charges social rent on all its tenancies. These are the most affordable rents available. In setting the rent levels we adhere to the Regulator of Social Housing's Rent standard and the Government's rent setting formula.

8.2 Service charges are shown as a separate weekly charge for the homes which benefit from certain services.

9. Tenancy sustainment

9.1 If a tenant needs support to sustain their tenancy, SCH will provide the necessary assistance where possible or direct the tenant to other Council services or relevant external support agencies.

9.2 Eviction will only be used as a last resort where other interventions and support to address tenancy breaches have proved unsuccessful.

10. Succession

10.1 The rights of succession set out below comply with the Housing Act 1985 and Localism Act 2011.

10.2 Where a secure tenancy has been granted before 1 April 2012, then a person will be qualified to succeed to the tenancy where they occupy the dwelling house as their only or principal home at the time of the tenant's death and is either:

- The sole tenant's spouse or civil partner
- Another member of the tenant's family and has resided with them for 12 months prior to their death

10.3 This will not apply where the sole tenant was themselves a successor.

10.4 Where there is more than one potential successor to a tenancy, the tenant's spouse or civil partner is preferred to another member of the tenant's family.

10.5 Where there are two or more other members of the tenant's family qualified to succeed, they should try to decide amongst themselves who is to succeed. If there is no agreement, SCH will make the final decision.

10.6 For tenancies which were granted on or after 1 April 2012, a person will only be qualified to succeed the tenant under a secure tenancy if he or she occupies the property as their only or principal home at the time of the tenant's death and is the tenant's spouse or civil partner.

10.7 A person who was living with the tenant as the tenant's wife or husband is treated as the tenant's spouse, and a person who was living with the tenant as if they were civil partners is treated as the tenant's civil partner.

10.8 There is discretion to allocate tenancies to persons residing with a tenant at the time of the death of the former tenant who are not entitled to succeed to that tenancy. In circumstances where a tenant dies and another household member (who does not have succession rights to the tenancy):

a) has been living with the tenant for the year prior to the previous tenant's death and the property was their sole or principal residence for a year before the previous tenant's death; or

b) has been providing care for the tenant and the property was their sole or principal residence for a year before the previous tenant's death; or

c) has accepted parental or caring responsibility for the former tenant's dependants who were living in the property as their sole or principal residence at the time of the previous tenant's death and needed to live with them in order to do so; or

d) is eligible and qualifies under this housing allocations scheme.

10.9 The Housing Options Manager or Housing Services Manager has delegated authority to make these decisions.

10.10 Where the tenancy of the property is not granted to the non-successor, but the Council agrees to offer alternative accommodation, the non-successor shall be placed in a priority band as set out in the Housing Allocation Scheme.

10.11 Property size will be assessed under the council's Bedroom Standard, or any equivalent standard set out in the Housing Allocation Scheme. Only household members who can provide evidence that they were residing in the property for the year prior to the tenant's death will be included in the housing application.

10.12 This policy on succession does not apply if a court has made an order under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings), section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce), or paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).

11. Mutual Exchange and Assignment

11.1 The Council is committed to removing barriers to increase mobility and choice for our social housing residents. Tenants in our council homes who are eligible and want to move, can exchange their home with another council tenant or housing association tenant. This complies with the Regulator of Social Housing's Tenancy standard.

11.2 The council operates a mutual exchange scheme where applications are dealt with consistently, fairly and in accordance with legislation.

11.3 With permission from SCH, tenants have the right to assign their tenancy. This can be both through mutual exchange and to someone who would be entitled to succeed to the tenancy.

11.4 In summary, permission to assign a tenancy may not be given if:

- Any rent due under one of the existing tenancies has not been paid or an obligation under one of the existing tenancies has been broken or not performed.
- Any of the relevant tenants are subject to an order of the court for possession.
- Proceedings have begun for possession of or injunction in relation to an existing tenancy which is a secure tenancy.
- A notice of proceedings for possession has been served on a relevant tenant, and the notice is still in force.
- Proceedings have begun for possession of an existing tenancy which is an assured tenancy.
- A notice has been served on a relevant tenant under an assured tenancy (notice of proceedings for possession), and the notice is still in force.
- A relevant order or suspended Ground 2 or 14 possession order is in force, an application is pending before any court for a relevant order, a demotion order or a possession order.
- A closure order is in place in relation to the property.
- The property is adapted and the assignee does require the adaptations.
- The property is designated for persons with special needs and the assignee does not have those needs.
- The property is substantially more extensive than is reasonably required.
- The property is not reasonably suitable.
- Any of the grounds for refusal under schedule 3 Housing Act 1985 apply

11.5 A demoted tenancy cannot be assigned under any circumstances.

11.6 An introductory tenancy cannot be assigned unless the court makes an order under section 24 of the Matrimonial Causes Act 1973 (property adjustment orders made in connection with matrimonial proceedings), section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce), or paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents) Sustaining tenancies and preventing unnecessary evictions.

11.7 Where one of the parties in the exchange holds a fixed term or flexible tenancy, the exchange will operate by a different legal process known as surrender and regrant rather than assignment.

12. Tenancy fraud

12.1 The Council and its managing agents will take a proactive approach to tackling unlawful subletting and other instances of tenancy fraud, carrying out regular tenancy checks. Immediate action will be taken to evict those that have obtained Solihull Council properties by making false or misleading statements.

13. Equalities considerations

13.1 A Fair Treatment Assessment has been carried out. By completing this we believe that providing secure tenancies for the majority of general need tenants gives important reassurance and peace of mind for all current and prospective council tenants and that this policy has a positive impact.

14. Communicating the tenancy policy

14.1 SCH will ensure that all tenants receive written information about the type and terms of their tenancy. Both tenancy sign ups and pre-tenancy work will always include an opportunity to ask questions about the tenancy.

14.2 It is important that tenants fully understand when a new flexible tenancy will not be offered, and the reasons for this, so it does not come as a surprise.

14.3 The terms of the tenancy will be communicated with tenants throughout their tenancies.

14.4 Current secure tenants will also be made aware of these changes and of the Tenancy policy so that they understand that these changes will generally not affect them. We will offer opportunities to discuss housing needs and aspirations with existing secure tenants who want to consider moving, or who are finding their current homes difficult to manage, especially those who are under-occupying their homes.

14.5 We are committed to ensuring that tenants are well informed about their rights, responsibilities and how to access services. Information is available through a comprehensive sign-up interview at the start of a tenancy, pre-tenancy work, newsletters and the website.

14.6 We will consult tenants on all matters relating to the management of their homes.

15. Policy review

15.1 This Policy will be reviewed every five years or when a change of legislation or external policy requires it.

15.2 The Council will consult on any changes to this policy unless they are required by law or regulation.

Appendix A: Tenancy Types offered by the Council

Tenancy Type	Circumstances determining the type of tenancy granted
Non-secure tenancies (including licence agreements)	People in temporary or emergency Council accommodation under homelessness legislation. Tenants that have been temporarily decanted from an existing tenancy. People living in supported/shared housing schemes such as hostels
Introductory	All new Council tenants for 12 months, extendable by 6 months.
Lifetime/Periodic Secure	All new general need tenants following successful completion of an introductory/starter tenancy, with some limited exceptions (see fixed-term). Existing lifetime tenants transferring to another tenancy
Fixed-Term (Flexible)	The Council will still use fixed-term tenancies in the following circumstances: • Large family homes (4+ bedroom) due to the severe shortage of these properties in comparison to demand • Properties set aside for specific purposes (e.g. Supported Housing) The longest term should be provided as appropriate, with a minimum of 2 years.
Demoted	A secure tenancy can be demoted to a 12-month introductory tenancy if the tenant has engaged in housing related anti-social behaviour by application to the Court.
Lifetime/ Periodic Assured	Tenants allocated properties which are developed and owned by SCH, not the Council. All new general need tenants following successful completion of a starter tenancy. Existing lifetime tenants transferring to another tenancy

Appendix B: Tenancy Rights

The table below sets out the statutory rights associated with each type of tenancy. In some cases, the Council has decided to add to these rights. Please refer to the notes.

Statutory Right	Secure Tenancy	Fixed Term Tenancy	Introductory Tenancy	Non-Secure Tenancy	Demoted Tenancy
Succession	Yes	Yes	Yes	No	No
Repair	Yes	Yes	Yes	No	Yes
Assignment	Yes	Yes*	No**	No	No**
Right To Buy	Yes	Yes	No	No	No
Take in Lodgers	Yes	Yes*	No**	No	No**
Sub-let	Yes	Yes*	No**	No	No**
Right to Improve	Yes	Yes*	No	No	No
Mutual Exchange	Yes	Yes	No**	No	No
Right to transfer	Yes	Yes	No	No	No
Right to be consulted	Yes	Yes	Yes	No	Yes
Right to participate	Yes	Yes	Yes	No	Yes

Notes

1. * Shows additional rights agreed by the Council

2. ** indicates that the Council has discretion in exceptional circumstances (e.g. to take in a lodger if the tenant needs a live-in carer)

3. A tenant must obtain permission from SCH before a mutual exchange can proceed or he or she takes in lodgers, sub-lets or improves their home