

Appendix 4: The advantages and disadvantages of using flexible tenancies

Advantages	Disadvantages
<p>Social housing landlords can make better use of their affordable housing by moving families on when or if their circumstances change and they no longer need that size properties or can afford to move into another form of housing.</p> <p>Reduces under occupation of family homes</p> <p>Opportunity to review with the tenant their Tenancy Agreement and to consider whether their current property meets their needs including location</p>	<p>The review process is intended to create an opportunity to consider the individual circumstances of each flexible tenant and move them to smaller accommodation or encourage them to move into home ownership or the private sector if they can afford this. The proportion of tenants whose circumstances improve enough to purchase a property, or move into the private rented sector is very low. Families requiring larger accommodation join the housing register and wait and their flexible tenancy is renewed while they do this.</p> <p>Alternative accommodation of any size is not readily available and there is a shortage of smaller accommodation particularly 1 bedroom units in Dover District Council (DDC) stock for flexible tenants to move into. Our allocation policy means that those most in need are offered properties first and as most flexible tenants are adequately housed their applications attract low priority.</p> <p>DDC already has an incentive scheme in place to assist older tenants wishing to transfer to a smaller property, and the current benefit cap also encourages tenants who are in receipt of housing benefit to downsize when the needs arises.</p> <p>Forcing tenants to downsize into a smaller property or move out into the private sector increases stress and anxiety for the household who inevitably fear that they could be made homeless.</p> <p>Tenants who feel less settled and believe they will be moved on are less likely to take responsibility for their home and invest their time and money into it. This could result in higher repair costs.</p>

	<p>Moving families about is disruptive for those with children who might be asked to move away from friends, family support networks and schools</p> <p>Moving tenants because their income exceeds a notional income threshold could discourage people from taking more work to boost their income.</p> <p>Increasing the turnover of tenancies on our estates is not supportive of the Council's desire to see strong, healthy, resilient communities.</p>
<p>The conduct of some tenants may be improved if they believe their tenancy will not be renewed.</p>	<p>The complicated process to end a flexible tenancy during the life of the tenancy for any reason is one of the main disadvantages of their use. Recent case law confirms that to have a successful outcome the tenancy agreement must contain a forfeiture clause and this process must be used rather than straightforward possession action. Fortunately the DDC tenancy agreement does have the appropriate clauses but the process to bring to an end a tenancy using this process is much more complicated and costly.</p> <p>In other situations tenants who have their review conducted 9 months before the tenancy expires may have been conducting their tenancy appropriately. If in the final months of their tenancy their conduct deteriorates it is too late to start the process of not renewing their flexible tenancy for this reason.</p> <p>Even if the Council does not wish to offer a further tenancy due to tenant's conduct, the Council is still obliged to offer advice on future housing options which may be very contradictory to the reality of the reason for eviction.</p>
<p>Flexible tenancy reviews may reduce rent arrears if tenants clear their debts to secure a new fixed term tenancy</p>	<p>Where a tenant has accrued rent arrears and the court has awarded the Council a Suspended Possession Order, it would be reasonable to renew the flexible tenancy where the tenant has complied with the court order. However, if the arrears have not been cleared at the end of the flexible tenancy, any court order is negated by the signing of a new tenancy and the rent arrears become former tenant arrears.</p> <p>The Council's tenancy conditions allow these arrears to be added to the tenant's rent account, but the court order can no longer be relied on to enforce payment. It is not common practice for courts to set a Suspended</p>

	<p>Possession Order at a higher level that would clear rent arrears by the end of the flexible tenancy period.</p>
<p>Admin burden</p>	<p>DDC started using flexible tenancies in May 2014 and to date there is no evidence that their use has increased stock turnover or vacancy rates.</p> <p>Flexible tenancies automatically become a lifetime tenancy at the end of the fixed term unless the landlord grants a new tenancy or is in the process of obtaining possession through the courts. If the tenant is unavailable either because of ill health or deliberately to sign the new agreement in time the tenant becomes a secure tenant by default.</p> <p>The Housing & Planning Act 2016 acknowledged this issue and amended the law as follows: 'unless the landlord grants a new tenancy, a further five-year fixed-term tenancy will arise automatically at the end of the fixed term. That does not prevent the landlord from bringing the original tenancy to an end, but it gives the tenant some protection, while ensuring that the tenancy does not roll over into a lifetime tenancy.' This section of the Housing & Planning Act 2016 has not been brought into force.</p> <p>Flexible tenancy reviews are conducted by Housing Officers. Each one take approximately 2 hours to arrange, complete a home visit and draft paperwork for. If a new tenancy is agreed a further 2 or 3 hours on average will be spent contacting the tenant to arrange for the new tenancy to be signed and set up in the IT system. This is an average cost per case of £108.75</p> <p>If an appeal against the decision is reached a senior officer will be required to hear this and this will take in the region of 5 -6 hours to prepare for, to review and respond to at a cost of £ 165.18 per case.</p> <p>Dover District Council currently have 616 flexible tenancies of our total stock of 4321</p>

	<p>This means that the current administrative cost of reviewing each case once will be</p> <p>£66,990 for review and tenancy agreement signing</p> <p>£10,075 assuming 10% of cases are taken to appeal.</p> <p>£77,065 total</p> <p>This figure increases as more flexible tenancies are created and would rise to £250,536 if 2000 flexible tenancies were created within our stock. It should be noted this is per review and each flexible tenancy requires review every 5 years.</p> <p>To date none of the flexible tenancies reviewed in the District have resulted in tenants being moved into smaller accommodation or into the private sector.</p> <p>Our current IT system (Northgate) does not have the capacity to help monitor the need for a FT review and as a result a further administrative burden and cost is placed upon the team from the need to monitor the timing of reviews through the use of spreadsheets.</p> <p>The time spent on managing flexible tenancies reduces the amount of time that housing staff have to deal with nuisance behaviour and support for vulnerable tenants.</p> <p>If we want to change our tenancy terms and conditions a process is set out clearly in the Housing Act 1985 that allows Local Authority landlords to write to all tenants and put them on notice of the changes proposed. This cannot be done with tenants who have flexible tenancy agreements and in this case each individual tenant would need to consent to the proposed changes to terms and conditions. If they did not agree they would continue with the existing terms and conditions until their flexible tenancy expired.</p>
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