



**Appendix B - Southwark Council Tenancy Policy
May 2024**

This document should be read in conjunction with the Southwark Tenancy Strategy, which is available online at

<https://www.southwark.gov.uk/housing/housing-strategy>

The Tenancy Strategy sets out the matters which Registered Providers (RP) that provide accommodation in Southwark must have regard to when deciding to offer particular types of tenancy, the length of fixed term tenancies, and the circumstances in which they will offer new fixed term tenancies upon expiry of the existing fixed term tenancy.

This is the Southwark Council Tenancy Policy which is how the council will apply the Tenancy Strategy to the tenancies used for stock owned or managed by Southwark Council.

The 'tenancy standard' as set out in the regulatory framework for social housing in England from April 2012¹ stated "Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud.

This policy is to be read together with the information about sustaining tenancies, preventing unnecessary evictions and tackling tenancy fraud that is set out in the Tenant's Handbook and the Conditions of Tenancy. The policies concerning the allocation of properties are set out in the Council' Allocation Policy and the Southwark Intermediate Rent Policy.

This Southwark Council Tenancy Policy covers the following, as per the guidance set out in the Tenancy Standard 2012:

- (a) The type of tenancies the council will grant.
- (b) Where the council grants tenancies for a fixed term, the length of those terms (intermediate rent properties only).
- (c) The circumstances in which the Council will grant tenancies of a particular type.

¹ <https://www.gov.uk/government/publications/tenancy-standard>

- (d) Any exceptional circumstances in which the Council will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period.
- (e) The circumstances in which the Council may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property.
- (f) The way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term.
- (g) The council policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability.
- (h) The advice and assistance the council will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.
- (i) The policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.

(a) The type of tenancy the council will grant

- a.1. In the case of social rented lettings this policy confirms the continued use of lifetime tenancies as per Sections A and B of the tenancy strategy, after successful completion of a 12 month probationary period as an Introductory Tenant (which is extendable up to 18 months).
- a.2. Southwark Council will offer fixed tenancies on all intermediate rent tenancies we manage). The council may choose to include a 12 month introductory tenancy probationary period (which is extendable up to 18 months). The aim of having an intermediate rent regime is to allow the resident to save up a deposit to help purchase a property on the open market, and to provide a more affordable housing option for keyworkers who would otherwise be renting in the private housing sector. The fixed term tenancy will help ensure the continued use of the property for Southwark keyworkers as defined in the Southwark Intermediate Rent Policy.

(b) Where the council grants tenancies for a fixed term, the length of those terms

- b.1. The council will only use flexible fixed term tenancies for intermediate rent properties. The fixed term will be for a duration of two years.
- b.2. The council may choose to include a 12 month introductory tenancy probationary period (which is extendable up to 18 months). This would be

followed by a two year fixed term tenancy on successful completion of the probationary period. Otherwise the council would start repossession proceedings. The council will clearly notify the tenant at the start that the tenancy will become a flexible fixed term tenancy after the probationary period, to avoid them inadvertently coming secure lifetime tenancies.

(c) The circumstances in which the council will grant tenancies of a particular type.

c.1. The council will only use flexible fixed term tenancies for intermediate rent properties. The council may choose to include a 12 month introductory tenancy probationary period (which is extendable up to 18 months). In most circumstances a secure lifetime tenancy will be granted.

(d) Any exceptional circumstances in which the Council will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period.

d.1. The council will only use flexible fixed term tenancies for intermediate rent properties. The fixed term will be for a duration of two years. This is an exceptional circumstance as we are only letting these properties to Southwark keyworkers (as per the Rent Standard and the policy statement on rents for social housing as published by the Government). The aim is to support the recruitment and retention of Southwark keyworkers, supporting these residents to save up a deposit to help purchase an affordable home ownership property (such as shared ownership), or a property on the open market. The product will also provide a more affordable housing option for Southwark keyworkers who may otherwise be renting in the private housing sector. The two year fixed term will help ensure the continued use of the property by Southwark keyworkers. However, the policy includes protections to provide additional security to help prevent homelessness.

d.2. The council may choose to include a 12 month introductory tenancy probationary period (which is extendable up to 18 months). This would be followed by a two year fixed term tenancy, on successful completion of the probationary period.

(e) The circumstances in which the Council may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property.

e.1. In the case of intermediate rent lettings, the council is only proposing to offer council intermediate rent homes to Southwark keyworkers, as per the Rent Standard and the policy statement on rents for social housing as published by the Government.

e.2. There will be an expectation that residents will try to save towards buying an alternative property such as through shared ownership, though this will not be monitored.

e.3. Nine months before the end of the fixed term, the council will conduct a review of household circumstances including household finances, suitability of the property and if the occupant no longer meets the current Southwark key worker definition. This will also assess whether there are any issues in relation to vulnerability, disability, illness and households containing children. The council will explore options with the tenant including:

- a) Suggesting shared ownership opportunities, and/or other purchase options and private renting
- b) Terminating the tenancy on expiry of the fixed term, if there has been a significant change in household circumstances such as an increased income to significantly above the threshold in the intermediate rent policy (initially £60k). This would include if the occupant no longer meets the current Southwark keyworker definition. However these cases will be sensitively handled on a case by case basis depending on individual circumstances.
- c) Offering a new two year fixed term tenancy if homelessness would otherwise be unpreventable through any other housing option.

e.4. At least six months' notice will be given of the final decision.

e.5. If the introductory tenancy probationary period has been extended from 12 to 18 months, the review process set out in e.3 will still follow the same timings.

(f) The way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term.

f.1. Under legislation (Section 107 B of the Housing Act 1985) a prospective flexible fixed term tenant can request a review of the length of the term offered when it does not reflect the local authority's policy on the length of the fixed-term flexible tenancies it will grant. The two year fixed term will be used for all intermediate rent lettings regardless of household circumstances. In the event of an applicant wishes to challenge this decision, the applicant should write to the council at the address stated on the following webpage: <https://www.southwark.gov.uk/housing/housing-strategy>.

f.2. The request must be made in writing and within 21 days of the offer of the tenancy. The review will be conducted as set out in the Flexible Tenancies (Review Procedures) Regulations 2012.²

f.3. An application for a review must be made in writing and must include—

- (a) the applicant's name and address;
- (b) a description of the original decision in respect of which the review is sought including the date on which the decision was made;
- (c) if the review is requested pursuant to s107B of the Housing Act 1985, a statement of the reasons why, in the applicant's opinion, the

² Flexible Tenancies (Review Procedures) Regulations 2012
<https://www.legislation.gov.uk/en/uksi/2012/695/regulation/1/made>

length of the tenancy does not accord with a policy of the landlord as to the length of the terms of the flexible tenancies it grants;

- (d) in any other case, a statement of the grounds on which the review is sought;
- (e) a statement to the effect that the applicant does, or does not, require the review to be conducted by way of an oral hearing;
- (f) a statement to the effect that the applicant does, or does not, agree to receive communications relating to the review by email, and if the former, the email address to which such communications should be sent. As per S196 of the Law of Property Act 1925 all notices will also be served in writing at the address of the tenancy.

f.4. The decision on whether to grant another two year fixed term tenancy at the end of the existing fixed term may also be reviewed. The appeal must be lodged in writing within 28 days of being informed of the decision, including the same details as per f.3. The appeal will be heard by a Review Panel which will consist of staff who have not been involved in the decision making. The Review Panel will consider the following.

- If the Notice has been served correctly.
- Whether the action (to serve the notice and end the tenancy) is appropriate.
- If the decision to terminate the tenancy has been taken fairly

f.5. The household will be informed of the outcome in writing and there will be no further right of appeal.

(g) The council policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability.

g.1. Secure lifetime tenancies following an introductory period, will remain the tenancy for all social rented lettings.

g.2. Flexible fixed term tenancies will only be used by the council for intermediate rent lettings. The two year fixed term will be used for all lettings regardless of household circumstances. As stated in Section E, nine months before the end of the fixed term the council will conduct a review of household circumstances. This will include whether there are any issues in relation to vulnerability, disability, illness and households containing children which need to be taken into account in deciding whether to offer a new fixed term tenancy. There will be regard to S149 of the Equality Act 2010. Where this applies, these cases will be referred to the Strategic Director of Housing to make a decision in a fair and

transparent way ensuring the appropriate level of stability for the household. Where this applies it will be closely monitored.

(h) The advice and assistance the council will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy.

h.1. For intermediate rent lettings, all households will be given information to explain their housing options towards the end of a fixed term tenancy. Nine months before the end of the fixed term, the council will write to the tenant to arrange a meeting to discuss their housing options and any changes in circumstances. Households may choose to move to alternative accommodation. Where a new fixed term tenancy will not be offered, the household will again be referred to the advice offered at the review, including any new housing options which may have arisen.

(i) The policy on granting discretionary succession rights, taking account of the needs of vulnerable household members.

- i.1. For lifetime tenancies the Council's Discretionary Allocation policy will continue to apply. This is contained in the Council's Allocations Policy. <https://modern.gov.southwark.gov.uk/documents/s41248/Appendix%20%20Housing%20Allocations%20scheme.pdf>
- i.2. For intermediate rent fixed term tenancies, succession rights will be determined using the appropriate legislation.
- i.3. The London Borough of Southwark may however use its discretion to consider allocating a new tenancy to a person who had been living with a deceased tenant but who does not have a legal right to succeed. There may be situations where the London Borough of Southwark considers it appropriate to exercise this discretion. The responsibility for approving the use of this discretion in individual cases is to be exercised by the Manager of the Housing Solutions Service or a Director of Housing.