

# Fixed Term Tenancy Policy

## 2017- 18



**Policy Reference:**

Fixed Term Tenancy Policy

**Approved by:**

SMT

**Date approved:**

March 2017

### **A. Scope and Objectives**

- 1.1 This Policy sets out how bpha grants fixed term tenancies which are compatible with the needs of the tenant, the best use of housing stock and the sustainability of the neighbourhood. It also outlines:
  - 1.1.1 The length of fixed term tenancies granted
  - 1.1.2 The circumstances in which tenancies may or may not be re-issued at the end of a fixed term in the same or a different property
  - 1.1.3 The way in which a tenant or prospective tenant may appeal the length of the term granted and any decision not to renew the tenancy
  - 1.1.4 The advice and assistance provided to tenants on finding alternative accommodation in the event we decide not to re-issue a tenancy

### **B. Policy Statement**

- 2.1 Fixed term tenancy agreements with an inclusive 1 year starter period will be issued to all new tenants moving into general needs housing. During the starter period the tenancy can be brought to an end using a break notice and following the section 21 (assured shorthold) process to obtain a possession order. The starter period will be for 12 months but may be extended by up to 6 months i.e. a total of 18 months, in cases where bpha wish to give the tenant more time to prove they can sustain a longer term tenancy.
- 2.2 The fixed term tenancy for new tenants will be for 3 years or 6 years (including the one year starter period) depending on the circumstances of the household. This will enable bpha to make best use of the affordable rented housing stock.

- 2.3 Tenants who have previously completed a fixed term tenancy will be offered a 2 or 5 year fixed term tenancy (without starter period) depending on the circumstances of the household. This will enable bpha to make best use of the affordable rented housing stock.
- 2.4 When we assess the circumstances of the household whether for the grant of an initial fixed term or prior to a renewal, we will take into account the needs of the household including any vulnerability by reason of age, disability or illness and the needs of households with children.
- 2.5 Fixed term tenancies will not be offered for:
  - 2.5.1 Any existing lifetime assured/secure tenant of bpha.
  - 2.5.2 Properties that are specialist sheltered, retirement living or supported housing.
  - 2.5.3 Any existing lifetime assured/secure tenant of a Local Authority or Registered Provider who have held their tenancy prior to 15 January 2012.

### **3. Tenants New to bpha**

- 3.1 New tenants who do not meet the criteria in section 2.5 above will be offered a fixed term tenancy for either 3 or 6 years (inclusive of the initial starter tenancy period of one year) as detailed below.

### **4. Three year fixed term tenancies**

- 4.1 Three year fixed term tenancies (Inclusive of the one year starter tenancy period) will be issued in the following exceptional circumstances:
  - 4.1.1 Where bpha is considering redevelopment or significant refurbishment of a particular scheme.
  - 4.1.2 To single person households under the age of 35 who have not held a tenancy prior to April 2016.
  - 4.1.3 Any other exceptional circumstance as decided by bpha at its discretion.

### **5. Six year fixed term tenancies**

- 5.1 Six year fixed term tenancies (inclusive of the one year starter tenancy period) will be granted to the majority of new tenants.

### **6. Existing Tenants**

- 6.1 Existing tenants will be granted fixed term tenancies with no inclusive starter tenancy period of either 2 years or 5 years.

6.2 Two year fixed term tenancies will be issued where a tenant/prospective tenant meets the criteria set out in section 1 and:

6.2.1 has an existing bpha non-converting starter tenancy, or

6.2.2 an existing fixed term tenancy with bpha,

6.3 In all other cases five year fixed term tenancies will be issued.

## **7. Review of Fixed Term Tenancies**

7.1 In the final year of the fixed term tenancies period it will be necessary to review the tenancy to inform a decision to:

- a) End the tenancy; or
- b) Grant a two or a five year tenancy for the existing property; or
- c) Grant a two or five year tenancy at an alternative property.

7.2 The decision not to grant a new tenancy will be made where the tenant has not managed their tenancy well and, if they were to hold a lifetime assured tenancy, we would be considering legal action to end the tenancy. Circumstances may include but will not be restricted to; non-payment of rent, serious antisocial behaviour, poor condition of the property or repeated refused access to the property.

7.3 Where a tenant has breached the terms of their tenancy agreement during the fixed term, normal tenancy enforcement action will be taken.

7.4 Household income will also be used in reviewing the tenancy to ensure bpha makes best use of its housing stock and continues to offer social and affordable housing to those who have a current need.

7.5 In the final year review of the tenancy if the income exceeds the level that would exclude the household from joining their local Housing Allocations Scheme bpha will not issue another fixed term tenancy.

7.6 If the decision is taken not to grant a further tenancy, the tenant will be given advice and assistance on their housing options based on their circumstances and signposted to relevant agencies to assist with rehousing.

7.7 If the property is no longer suited to the needs of the household, for example, the property is now too large for their needs, bpha will grant another tenancy but for a property that is more suited to the needs of the household.

7.8 The decision to grant a further tenancy and its term will be dependent on the circumstances of the household using the criteria above. New fixed term tenancies

will be issued where tenant's circumstances have not changed and there would be no benefit to them or bpha in moving them to a different property.

- 7.9 Where a decision is made not to renew a fixed term tenancy, bpha must serve the tenant with a 'minded to' notice stating that the landlord does not propose granting another tenancy on expiry of the fixed term and the reasons for that decision. The minded to notice must be served at least 6 months before the end of fixed term.

## **8. Right to request a review**

- 8.1 A tenant/prospective tenant have the right to request a review of:

- The type of tenancy being offered
- The length of the fixed term tenancy being offered

- 8.2 All requests for a review of the above should be made in writing within 14 days of the original decision being made. These requests will be reviewed on an individual basis in accordance with HM045 Appeals Process Procedure.

## **9. Right to appeal the decision not to renew**

- 9.1 A tenant has the right to appeal any decision not to renew their tenancy at the end of the fixed term. Any appeal must be made in writing within 14 days of service of the minded to notice. Appeals will be judged on an individual basis in accordance with our HM045 Appeals Process Procedure.

- 9.2 A tenant also has the right to appeal any decision to end or extend their starter period in line with HM045 Appeals Process Procedure.

## **C. Regulatory and legal Considerations**

This policy complies with all statutory, regulatory and legal requirements, in particular:

The Tenancy Standard in the HCA's Regulatory Framework

Section 21 Housing Act 1988 (as amended)

The Localism Act 2011.

## **D. Monitoring, Reviews and Evaluation**

The success of this policy will be measured by:

- The number of fixed term tenancies being issued
- The number of 5 year tenancies being issued
- The number of 2 year tenancies being issued
- The number of fixed term tenancies ended at the end of their fixed term period

- The number of fixed term tenancies re-issued for alternative properties
- The number of appeals made against ending a fixed term tenancies and the number of these appeals upheld
- The number of fixed term tenancies issued with an increased rent.

Fixed term tenancies are issued in accordance with The Localism Act 2011 and meet the requirements of the HCA Tenancy Standard.

## **E. Associated Documents and Procedures**

bpha Tenancy Policy

HM008 Starter Tenancy Procedure

HM045 Appeals Process Procedure

<b>Status</b>	Version 1
<b>Responsible</b>	Head of Housing Operations
<b>Next review date</b>	February 2018