

Fixed term tenancies



What is a fixed term tenancy?

This is a tenancy that is offered for a specific length of time. The Localism Act 2011 changed the law to enable social landlords, like Thrive Homes, to offer fixed term tenancies. Thrive Homes' fixed term tenancies will normally be for 7 years. During the fixed term the tenancy can only be ended by a court order on the usual grounds for possession. After the fixed term the tenancy will end. It is not a "lifetime" tenancy. You will either be granted a new tenancy or be given help to move.

Why are fixed term tenancies being introduced?

There is not enough social housing available to meet the demand. Some people may no longer require the particular home that they are living in. Their family may have grown up and left or their financial or other circumstances may have improved since they first needed social housing. If people continue to live in a property that they no longer need, it means that others in more difficult circumstances are left waiting for a social home.

How does this affect me?

If you became a housing association or council tenant before April 2012

If your social tenancy started before the relevant part of the Localism Act 2011 came into effect, you will be able to keep your current security of tenure – even if you move by way of a transfer or a mutual exchange – provided you continue to live in a property let at social rent. This also applies if you move into sheltered accommodation or a designated elderly persons dwelling.

The introduction of fixed term tenancies will only affect you if you choose to move (either by way of a transfer or mutually exchange) to a property let at an “affordable rent”. If you opt to move into one of our “affordable rent” properties, we will also ask you to change to a fixed term tenancy. You can find out more in our *Affordable Rent* leaflet and on our website.

The majority of Thrive Homes’ properties are available at a social rent. The type of rent charged (social rent or affordable rent) will be shown clearly show in the Herts Choice Homes advert. You do not have to bid for an affordable rent property. We strongly advise you to consult with housing benefit and welfare advice agencies before accepting an affordable rent property in order to ensure that you can afford it now and in the future.

If you became a housing association or council tenant after April 2012

After April 2012, we will offer new tenants a pre-fixed term tenancy (lasting 12 months). It will normally be followed by a fixed term tenancy (lasting 7 years). In exceptional circumstances we may offer the fixed term tenancy for a period of less than 7 years however the minimum period we will offer is 2 years.

If you live in a Thrive Homes designated elderly persons dwelling or a sheltered scheme you will have a lifetime tenancy. However your security of tenure may not be protected if you transfer or exchange. This will be explained to you when you sign your tenancy.

If your property has been let to you at an affordable rent

You will have a fixed term tenancy if your property has been let to you at an affordable rent. Please read our separate leaflet about *Affordable Rent*.

What happens at the end of the fixed term?

We will carry out a review and consider your circumstances.

If we decide to grant a new tenancy it will normally be for a further period of seven years. However we may offer you a different property if we consider your home is too big for your needs.

If we do not intend to grant a new tenancy we will give you six months notice (including serving a notice seeking possession before the last two months). During this notice period we will offer you advice and assistance to help you to find somewhere else to live.

Is there a right to appeal against a decision to end the tenancy?

You have a right to request a review of our decision not to grant a new tenancy. We can only gain possession of a property if we have been granted an order to do so by a court.

What are the succession rights for a fixed term tenancy?

Existing secure and assured tenants' succession rights remain unaltered.

However under the Localism Act 2011 there are new restrictions on who is eligible to succeed to a tenancy. The new succession rights will be stated in your fixed term tenancy agreement. Do ask if you would like us to explain this further to you.

Moving home

Will all councils and housing associations be offering the same types of tenancy?

No, each council and housing association will offer different types of tenancy. However both types of landlord will be able to offer periodic (sometimes called 'lifetime') tenancies and

fixed term (sometimes called ‘flexible’ tenancies).

If you are transferring between landlords you need to understand the type of tenancy you are being offered. Be wise – ask us for advice before accepting a tenancy or carrying out a mutual exchange.

Different housing associations and councils will have different policies so it is important that you ask the landlord what type and length of tenancy they are offering before you accept a property.

How will people looking to move know what type of tenancy is being offered?

It will be made clear on the Herts Choice Homes advert what type of tenancy each landlord is offering and what type of rent is being charged for each property. It is important you understand the terms of the tenancy before accepting it.

If I am an existing lifetime tenant and I want to exchange with someone on a fixed term tenancy, will I lose my security of tenure?

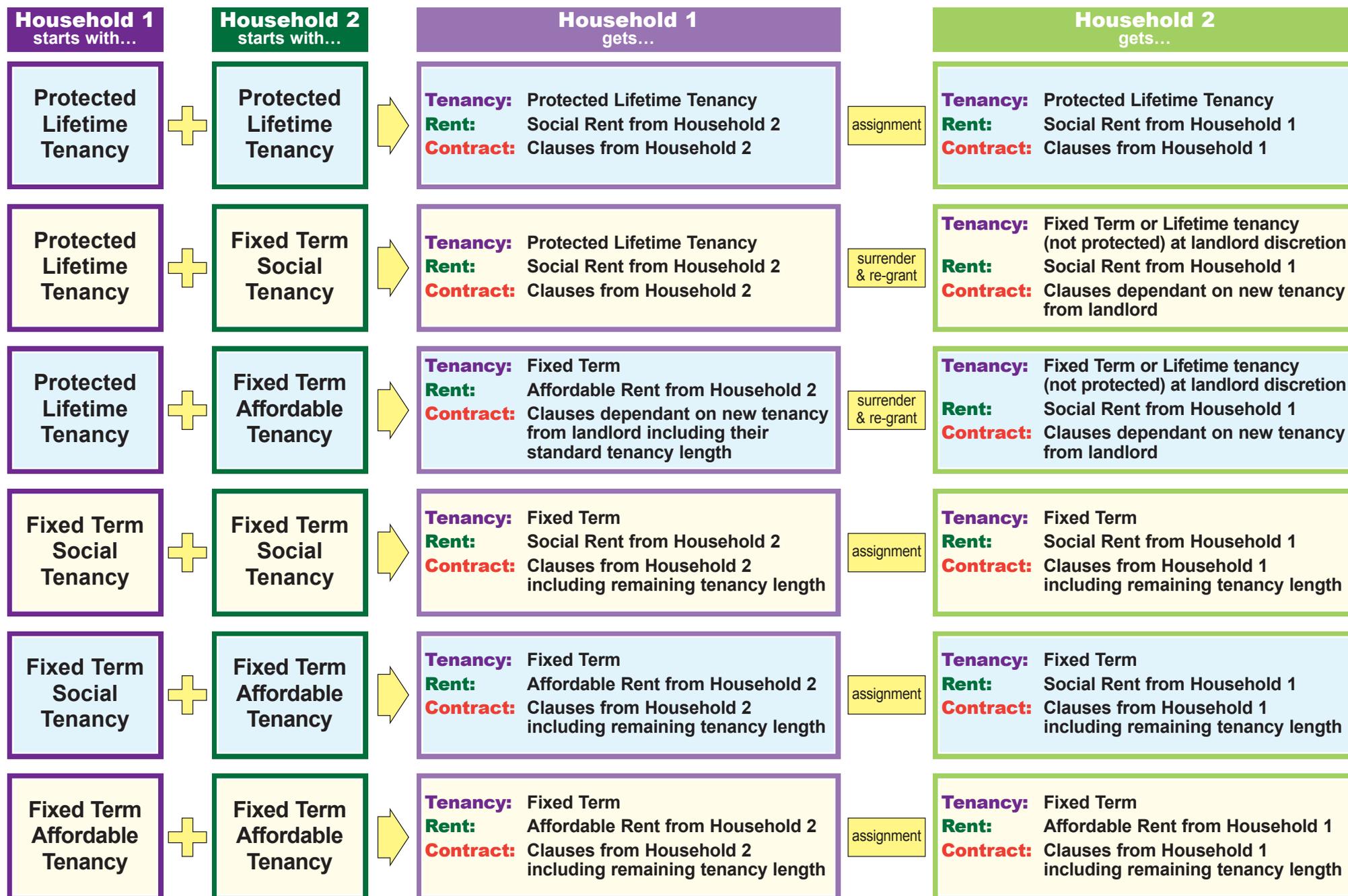
No. The Localism Act 2011 allows for the existing secure or assured tenants to be granted a new secure or assured tenancy if they exchange with a tenant who has a fixed term. Therefore, existing tenants’ security of tenure will not be altered by an exchange. This protection does not apply if you move to a property let at an affordable rent.

A landlord can refuse an exchange based on certain grounds. You will need to check with us and the new landlord (if it is not Thrive Homes) about this.

The diagram overleaf shows you some of the ways your type of tenancy and rent may alter if you transfer or mutually exchange your existing home for another. Do ask us for advice if you are planning to make a swap or move home as there are many variations – we have only shown the more usual ones here.

Please read our separate leaflet on *Housing Options* for further details, and talk to us if you are considering moving home.

How your tenancy and rent alters after Mutual Exchange



Questions?

If you have any further questions about types of tenancies, affordable rent or mutual exchange please contact us on 0800 917 6077.

Do you need extra tenancy or financial support?

Our friendly, experienced Independent Living team will be pleased to offer you helpful advice with managing your tenancy and your money. You can find out more on our website, or ring us for a confidential chat on 0800 917 6077.



Definitions

Fixed term Tenancy

A tenancy that is offered for a specific period of time, as opposed to lifetime tenancies. The exact form of tenancy will depend on whether the landlord is a local authority (council) or a housing association (also known as registered social landlord or registered provider).

Assured Tenancy

The most common form of tenancy offered by housing associations (as set out in the Housing Act 1988). It provides a lifetime security of tenure.

Fixed Term Assured Shorthold Tenancy

A new form of tenancy to be offered on all Thrive Homes' general needs properties that will expire after a fixed length of time (7 years).

Secure Tenancy

The most common form of tenancy offered by local authorities (as set out in the Housing Act 1985). It provides a lifetime security of tenure.

Flexible Tenancy

A new type of tenancy only available to local authorities (councils). Flexible tenancies have similar rights to secure tenancies during the fixed term. This is only available to a new tenant if the authority chooses to offer them. The tenancy can only be ended during the fixed term if the tenant breaches the terms of the tenancy and if the tenancy agreement contains a break clause.

Affordable rent

The Government has brought in new legislation under the Localism Act which allows social housing providers, like Thrive Homes, to charge higher but “affordable” rents in order to pay for the building of new homes. Affordable rent is set at a maximum of 80% of full market rent (average rent charged in the area for a particular property type). It will therefore be higher than current social rents but lower than the open market rent. Thrive Homes expects to offer our new homes at a lower rent than the government formula suggests.

Assignment

Assignment is one of the ways in which a tenancy can be legally transferred from one person to another during their lifetime. The tenancy is 'signed over' from one tenant to another. Only certain tenants have the right to do this. Even then, the correct legal procedures must be followed and Thrive Homes' permission is required.

Existing tenant

A tenant who was a social tenant before the Localism 2011 Act came into effect and has remained a social tenant ever since.

Mutual exchange

A swap of accommodation between two, three, four or more social housing tenants where they move permanently into their exchange partner's property. A tenant cannot exchange into an empty property. *Note:* this is where changes in tenancy may occur as well as changes in rent charged, particularly when exchanging with another landlord apart from Thrive Homes. Please see our separate advice leaflet on Mutual Exchange and contact us if you have any questions.

Succession

Where a tenant dies there may be another family member with the right to take over the tenancy. The right depends upon the relationship between the family member and the tenant, and how long they have lived together. The law around this varies depending on whether the tenancy is assured or secure. There are further restrictions if the tenancy is fixed term or flexible.

Surrender & Re-grant

Surrender and re-grant of a tenancy is needed where a tenant has certain tenancy conditions, for example security of tenure, are protected. In order to ensure these protections are carried forward both tenancies in a mutual exchange will be surrendered (that is given up) and new tenancies granted including the relevant protections in the new agreements.

Thrive Homes information is available in **large print**, on our website and spoken word translation. Please contact us free on 0800 917 6077 to discuss how we can help you. We want to ensure our services are fair, and accessible. If you know anyone who may need this type of help and support please tell us.

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