

# **Royal Borough of Kensington and Chelsea Intermediate Rent Tenancy Policy**

**January 2017**



THE ROYAL BOROUGH OF  
**KENSINGTON  
AND CHELSEA**

## **1. Purpose**

- 1.1 The purpose of this policy is to detail how Royal Borough of Kensington and Chelsea properties will be let on an intermediate rent tenure.
- 1.2 The Royal Borough of Kensington and Chelsea (the Council) will lease the properties to the Kensington and Chelsea Tenant Management Organisation (KCTMO), who will issue tenancies for, and manage, the Council's intermediate rent properties.

## **2. Scope**

- 2.1 This Intermediate Rent Tenancy Policy sets out the approach to issuing and reissuing tenancies to the Council's intermediate rent housing stock.
- 2.2 This policy does not cover tenancies which will be issued by Registered Providers of Social Housing (housing associations) either in the Royal Borough or into whose stock the Council has nomination rights.

## **3. Legislative framework**

- 3.1 This Intermediate Rent Tenancy Policy refers to Assured Shorthold Tenancies under Part 1 of the Housing Act 1988 (as amended).
- 3.2 This Intermediate Rent Tenancy Policy is based on the principle that intermediate rent properties should provide homes for households unable to access social housing and unable to afford market rents and sets out the criteria upon which intermediate rent tenancies will be reissued.

## **4. Issuing a tenancy**

- 4.1 Properties will be let in accordance with the criteria in the Council's Allocation Policy for Intermediate Housing which defines the way in which any Intermediate housing units are allocated and specifies those who are eligible to apply.
- 4.2 A three year fixed term Assured Shorthold Tenancy (AST) will ordinarily be issued to all new tenants. The Council may determine on a case-by-case basis that a property may be let on a fixed term AST of less than three years, but no less than 12 months.
- 4.3 New tenants will be required to terminate any existing tenancy they possess before signing a KCTMO AST.

## **5. Tenancy review and reissue**

5.1 All fixed term tenancies will be subject to a review towards the end of the tenancy term. This review could lead to the tenancy being reissued for a further 12 months. Alternatively, in some cases the tenancy will not be reissued.

### **Review at the end of the tenancy period**

5.2 An assessment of the household's circumstances will take place as part of this process. KCTMO will carry out this assessment and reach a decision either to reissue the tenancy or to end the tenancy.

5.3 The tenant will need to give his or her consent to KCTMO obtaining evidence and information relevant to the assessment to establish if the tenancy should be reissued. This must include information regarding household members, income, savings, assets and investments. This consent should not be unreasonably withheld.

### **Process for tenancy review**

5.4 KCTMO will contact tenants six months before the end of their tenancy to investigate and assess the circumstances of the household in order to decide whether to reissue the tenancy or not.

5.5 Tenancies will not be reissued where:

- The total household income is above the thresholds for intermediate housing set by the Royal Borough. These thresholds are subject to change but are currently no more than £71,000 per annum per household when eligible to rent a one or two bedroom home or no more than £85,000 per annum per household when eligible to rent a family sized home (three or more bedrooms).
- The household income falls below £20,000 (the minimum income threshold).
- The household has savings over £100,000.
- The household already part or fully owns their own home, or no longer occupies their KCTMO AST as their principle home.
- The property is deemed unsuitable for the household (see section 8).
- There has been a serious or persistent breach of the tenancy during the term.
- The Council has decided that a property will no longer be designated and let as an intermediate rent property.

5.6 There may be circumstances where the tenant refuses to engage with KCTMO regarding the review process. Where a tenant refuses to provide information to allow a review of the household's circumstances or refuses to co-operate fully with the review process, the KCTMO will deem that the tenant does not wish to continue occupying the home. The tenancy will not be reissued in these circumstances.

5.7 Tenancy reissue is completely at the KCTMO's discretion.

## **Cases where a tenancy is reissued**

- 5.8 Where the tenancy is reissued, KCTMO will sign a new tenancy agreement with the tenant, ensuring full verification of details.
- 5.9 Tenancies will be reissued for 12 months.

## **Cases where a tenancy is not reissued**

- 5.10 Where a tenancy is not reissued, the tenant will be informed of the decision not to reissue. They will receive written notice at least two months before the current tenancy expires, advising that the KCTMO will require possession at or after the end of the term. In the event that the tenancy has become a periodic assured shorthold tenancy, the tenant will receive written notice of at least two months in accordance with section 21 of the Housing Act 1988. The tenant may approach the Council to seek advice about finding alternative accommodation. This may include shared ownership or private sector renting, including in locations in other parts of London or further afield.
- 5.11 Where appropriate, referrals will be made to relevant advice agencies, such as Citizens Advice Bureau. Referrals to the Council's Housing Options service are also available.

## **Break clause**

- 5.12 Where the Council has decided that a property will no longer be designated and let as an intermediate rent property, it will be necessary to bring to an end the head-lease for that property.
- 5.13 Where it is necessary to bring to an end the head-lease for the property, the KCTMO may bring to an end the assured shorthold tenancy on a date which is no less than six months after the start of the tenancy by giving the tenant or joint tenants at least two months' notice in writing. In the event that the tenancy has become a periodic assured shorthold tenancy, the tenant will receive written notice of at least two months in accordance with section 21 of the Housing Act 1988.

## **6. Conduct of tenancy**

- 6.1 Where a serious or persistent breach of the tenancy has occurred during the term, the tenancy will not be reissued. The legal rules and procedures will be followed to evict Assured Shorthold Tenants. If any of the following grounds (reasons) apply, repossession of the property may be sought during the fixed term by giving the tenant notice under Section 8 of the Housing Act 1988 of the intention to apply to court for possession and, subsequently, applying to the court for a possession order.

6.2 The following grounds are contained in Schedule 2 to the Housing Act 1988:

- Ground 2 (mortgagee (lender) entitled to possession)
- Ground 8 (at least eight weeks' or two months' rent arrears)
- Ground 10 (some rent overdue)
- Ground 11 (tenant persistently late in paying rent)
- Ground 12 (breach of any term(s) of tenancy agreement)
- Ground 13 (condition of property or common parts has deteriorated due to acts etc. of tenant or other occupant)
- Ground 14 (the tenant or other person residing in or visiting the property is guilty of nuisance/annoyance in the locality or convicted of a criminal offence in relation to the property or committed in the locality)
- Ground 17 (landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by the tenant or a person acting on the tenant's behalf).

## **7. The eligible household**

7.1 Persons permitted to reside in the property with the tenant or joint tenants (the eligible household) will be defined in accordance with the criteria set out in the Council's Allocation Policy for Intermediate Housing.

**7.2 The Tenant will not be permitted to allow any other persons to live at the property, or to move into the property, without the written consent of the KCTMO.**

## **8. Suitability of property**

8.1 Tenancies may not be issued (or reissued) to a household if KCTMO deems the property to be unsuitable for the household's needs.

8.2 A property may be considered to be unsuitable, for example, where a household would be severely overcrowded at the property, or the property would be under-occupied, or where the property would be unsuitable in light of the household's medical and healthcare needs. KCTMO will have regard to the Council's Allocation Scheme when considering whether a property is suitable (for example, the definitions of overcrowding and under-occupation).

8.3 KCTMO will determine and have the final decision as to whether a property is suitable for an applicable household.

## **9. Income and savings**

### **Income and savings thresholds**

9.1 Household income and savings is defined as follows:

- Income earned by and savings in the possession of the tenant, and/or joint tenants, and/or the tenant's partner.
- A partner is someone who lives with the applicant as a partner, or who would live with them if they were able to. This includes mixed-gender and same-sex couples, whether or not they are married or in a civil partnership.
- 'Tenant' means a prospective tenant/joint tenant and existing tenant/joint tenant.

9.2 In order to be issued (or reissued) a tenancy, the eligible household must:

- earn more than £20,000 gross per annum
- not earn more than £71,000 gross per annum with regard to one and two bedroom properties
- not earn more than £85,000 gross per annum with regard to properties with three bedrooms or more
- have savings and capital interest worth less than £100,000
- not already part or fully own their own home.

9.3 The income thresholds will be periodically reviewed to remain in line with any revisions made by the Greater London Authority (GLA), and/or local priorities.

### **Rent review - review of tenant's income and savings**

9.4 KCTMO will ordinarily conduct a rent review (a review the tenant's household income) on an annual basis.

9.5 A tenant may be subject to more than one rent review within a 12-month period if their tenancy commenced six or more months before the annual rent review process.

9.6 If, upon review, a tenant's household income falls within a new income band (different to the band upon which their previous rent was set), the tenant will be charged a level of rent reflecting their new bracket as set out in section 10.

9.7 If a tenant's household income falls below the minimum income threshold (£20,000 unless uprated), the tenant should seek advice from the KCTMO. The tenant may be advised to relinquish the tenancy if there is no prospect of regaining an income above the minimum threshold so that they do not accrue arrears for the tenancy.

9.8 KCTMO will provide a tenant with at least four weeks' written notice of a new rent where applicable.

## **10. Rent setting policy**

- 10.1 Weekly rent charges will be set no greater than 30 per cent of gross income levels affordable for the lowest earning in the following gross income bands.

Band 1	£20,000 to £30,999
Band 2	£31,000 to £45,999
Band 3	£46,000 to £60,999
Band 4	£61,000 to £70,999
Band 5	£71,000 to £85,000

Therefore, should a household income fall within Band 2, weekly rent will be charged at 30 per cent of a gross income of £31,000. Should household income fall within Band 3, weekly rent will be charged at 30 per cent of a gross income of £46,000.

- 10.2 Weekly rents charged for each income band are shown in Table 1. Weekly rents will increase as and when the income bands are reviewed and updated.

**Table 1 – weekly rent charged for each income band**

Band	Gross Income threshold	Property eligibility and rent level		
		1 bedroom Rent per week (£)	2 bedroom Rent per week (£)	3 or more Rent per week (£)
1	£20,000 - £30,999	115		
2	£31,000 to £45,999	179	179	
3	£46,000 to £60,999	265	265	265
4	£61,000 to £70,999	352	352	352
5	£71,000 to £85,000			410

- 10.3 Differentials on rent will not be based on property size/number of bedrooms.

- 10.4 For the first income bracket, only one bedroom properties will be offered. Two and three bedroom properties will not be offered to households within this income bracket. Three bedroom properties will not be offered to the second income bracket (£31,000 - £45,999). One and two bed properties will not be offered to the top income bracket (£71,000 – £85,000) as the income thresholds for one and two bedroom properties is £71,000.

- 10.5 The income bands will be periodically reviewed.

## **11. Discretion**

There may be limited circumstances when the Council's Director of Housing, or duly delegated persons, may exercise discretion in relation to this policy due to exceptional individual circumstances and they will do this by taking into account all the circumstances considered relevant.

## **12. Reviewing the tenancy policy**

- 12.1 This Intermediate Rent Tenancy Policy will be subject to annual reviews and any changes consequent on such reviews will be approved by the Cabinet Member for Housing and Property. Amendments at other times will be made through the Key Decision process. Any major changes will be consulted upon before a decision is taken to implement them.
- 12.2 The gross household incomes will be reviewed periodically to ensure that they remain within the GLA thresholds for intermediate housing options.