

Cheshire West and Chester Council
Housing Management

Tenure Policy

1 MANAGEMENT INFORMATION

Approval Date – V1	2 nd July 2024
Next Review Date	1 st July 2027
Responsible Service Area	Strategic Housing and Commissioning
Responsible Director	Gemma Davies, Director of Economy and Housing

Aim of policy

This policy applies to all housing management services and homeless support services delivered on behalf of Cheshire West and Chester (CW&C) Council.

This policy sets out which type of tenancy ForHousing will offer CW&C tenants on behalf of CW&C and how these will be managed. This policy does not relate to leasehold, or shared ownership properties.

In accordance with the Tenancy Standard as set out in the Regulatory Framework issued by the Regulator of Social Housing, we will offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of our housing stock. We will meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.

We aim to be compatible with Cheshire West and Chester Council's objectives through the monitoring of their tenure strategies and policies.

CW&C will only offer a tenancy to those who can provide evidence to confirm:

- They have UK or EU citizenship;
- They have been granted indefinite or limited leave to remain in the UK;
- They have applied for an extension of their leave to remain if it has expired.
- They have a 'Right to Rent'.

Exclusions and Suspensions

Some applicants will not be eligible for ForHousing accommodation, this includes:

- Households excluded by law from holding a tenancy.
- Households that do not meet the 'Right to Rent' requirements under Section 22 of the immigration Act 2014.
- Applicants who, either as a tenant of ForHousing or another landlord have acted in a manner which would have seriously breached the terms of our tenancy, for example anti-social or criminal behaviour or who have rent arrears.

Types of Tenure

All new tenants will be given an Introductory tenancy which will run for an initial period of 12 months.

Introductory Tenancies

An Introductory Tenancy will run for a period of 12 months. Provided that proceedings for possession have not begun within this period or an extension applied (set period of 6 months), the tenancy will automatically become a secure tenancy after 12 months.

Introductory Tenants do not have the same statutory rights as Secure Tenants. They cannot sublet, take in lodgers, improve or exchange their home for the first 12 months and do not have the Right to Buy. Partners can be added to the household.

Where a tenant adheres to the terms of their tenancy during the initial 12 month period, the tenancy will usually be converted to a Secure Tenancy. Where the terms of the tenancy are not adhered to, the Introductory tenancy may be extended for a further 6 months.

Secure Tenancies

The rights of Secure tenants will be set out in the tenancy agreement and where possible, ForHousing will aim to give tenants the same tenancy rights including succession, assignment, transfer and mutual exchange.

Where permission is sought to amend a tenancy, it will not be granted if the change will reduce the security of tenure of the original tenant, unless there are other substantial benefits for that tenant.

CW&C do not offer Fixed term tenancies.

CW&C shall grant those who were social housing tenants on the day on which section 154 of the Localism Act 2011 comes into force, and have remained social housing tenants since that date, a tenancy with no less security where they choose to move to another social rented home, whether with the same or another landlord. (This requirement does not apply where tenants choose to move to accommodation let on Affordable Rent terms).

Security of Tenure

Information must be sought at allocation stage (if not already available) on the applicant's current tenure in order to determine the type of tenancy they will be offered. All relevant details and tenancy start dates should be confirmed in writing with the current landlord

before any offer is made.

Applicants who are currently secure tenants of other councils or assured tenants of housing associations (or RSL) and who have held their tenancy for more than 12 months will be offered a secure tenancy with the Council.

Where the applicant is an Introductory Tenant of another council, or an assured short-hold tenant of a housing association (or Registered Social Landlord), they will be offered an introductory tenancy with the Council for the balance of 12 months. For example, if the applicant has been an Introductory Tenant with another RSL for eight months, their introductory tenancy with the Council will last a further 4 months, in order to complete their trial period.

Exclusions from the 12-month introductory period

Any time spent in a hostel, and under a licence agreement does not count towards the introductory tenancy period.

If the applicant is being re-housed from a tenure other than local authority or housing association (e.g. private rented sector), even if they have been a secure tenant in the past, they will be offered an introductory tenancy with the Council for a period of 12 months.

Variation of tenancy

Introductory Tenants are not permitted to apply for a joint tenancy during their introductory period, as the persons to be added to the tenancy will not have lived at the address for the 12 months required.

This will also apply to a tenant's spouse should they marry during the introductory period. No names may be added to the tenancy during the introductory period. But can be added to the Household. Any name changes (e.g. reverting to maiden name) can be carried out without affecting the introductory period.

Additional Rights

The Council allows for a certain amount of discretion with introductory tenancies dependent on how the tenancy has been conducted. Lodgers may be permitted subject to written permission.

There is no statutory right to improve, or to compensate for improvements, but if an Introductory Tenant wishes to improve their property, they are required to apply in writing and may be permitted to do so at the discretion of the Asset Management Team.

Provided written permission has been given for an improvement, an Introductory Tenant can apply for compensation if they leave before the end of their introductory period. Although this is outside the scope of the statutory scheme, applications will be assessed on the same criteria, with the same qualifying improvements applying.

Succession

When an Introductory Tenant dies, the tenancy may be passed on to a qualified successor. The rules are essentially identical to those for secure tenants, with the balance of the introductory period continuing for the new tenancy.

In some circumstances we may offer a tenancy to those left in occupation following the death of the tenant. This will take place at the discretion of the housing manager.

Introductory Tenancy Notice

Should a serious breach of tenancy conditions occur during the Introductory Tenancy period, action may be taken to terminate the tenancy. This will involve the service of an Introductory Tenancy Notice, stating the reasons for seeking to end the tenancy.

Where possession proceedings are taken against an Introductory Tenant, the court must grant possession provided that the notice and review procedures have been followed correctly and the Council can demonstrate that it has acted reasonably.

The Council reserves the right to extend the introductory tenancy period in the event of less serious breaches of the tenancy conditions, or where more time is needed to investigate allegations. The length of the extension will be 6 months.

Commitment to Support

We will enable residents to become knowledgeable about their rights and responsibilities as tenants and to acquire and use the appropriate skills to maintain a tenancy successfully.

Every effort will be made to sustain Introductory Tenancies by closely working with tenants in this process.

Support assessment and referrals will take place as part of the tenancy sign up process. Tenants will be offered information and referrals for support to match their needs.

All new residents within 5 weeks of the start of their tenancy will be contacted and or visited to ensure that they understand their responsibilities as tenants and to ensure the support needs have been adequately gauged. Further reviews will be undertaken throughout the Introductory period.

Where we are unable to offer a tenancy, we will ensure that we work with CW&C homeless team to ensure the adequate support is provided.

Reviewing Introductory Tenancies

ForHousing will monitor Introductory tenancies throughout the period of the tenancy and will undertake a full tenancy review after 9 months, to decide whether to terminate the tenancy, extend the tenancy or offer a Secure tenancy.

ForHousing may extend an Introductory tenancy from 12 months to 18 months where there are concerns around anti-social behaviour being committed at the property, but the behaviour is not serious enough at that time to seek possession of the property and to pursue warrant possession action, or where we are still monitoring the tenant's behaviour

ForHousing will notify a tenant in writing of any decision we make to extend an Introductory tenancy and will explain the reasons for this decision in writing. Tenants have the opportunity to request a review of this decision.

Ending an Introductory Tenancy

A Housing Act 1996 Section 127 Notice of Seeking Possession may be used to commence legal proceedings to end an Introductory tenancy for ASB, and other reasons for example serious breach of tenancy or rent arrears.

ForHousing will offer a right to request a review of the decision to serve such a notice.

Where a decision is made to end a tenancy, ForHousing will ensure that housing options advice is offered to the household.

Decants

When a household needs to be decanted to another temporary property ForHousing will ensure that the tenant retains the same level of security of tenure at the temporary tenancy. Where the rent is higher at the temporary tenancy, an allowance will be applied to the rent account to bring in line with the rent at the primary tenancy.

Mutual Exchanges and Transfers

Where a tenant undertakes a mutual exchange, they take over the tenancy and security of tenure of the property into which they are moving. No new tenancy agreement is signed.

Succession

Where a joint tenant dies, the tenancy passes to the remaining joint tenant(s) under the law of survivorship. When a sole tenant remains following the death of other joint tenant(s) they are to be regarded as having succeeded. There can be no further statutory succession thereafter. Where a sole tenant dies, (other than a surviving sole tenant as detailed above) a spouse or civil partner occupying the property as their only or principal home immediately before the death, is entitled to succeed. A person living with the tenant as a husband, wife, civil partner, or cohabitee is treated as a spouse and thus is also entitled to succeed if living with the tenant at the time of death. No other family member has a statutory right to succeed. However, ForHousing will consider requests from family members who are assessed as being in housing need and who would be eligible for a property of this size and type. The decision to grant a tenancy to a family member based on succession lies with the Housing Manager.

Tenants with Limited Leave to Remain

If a tenant has limited leave to remain they shall be granted an Introductory Tenancy which will convert to an Secure tenancy after 12 months. Should the tenant's leave to remain expire or be withdrawn enforcement action to end the tenancy will be taken using the grounds for possession.

Tenancy Fraud

ForHousing is committed to identifying and tackling tenancy fraud and take all instances of tenancy fraud seriously in order to ensure that the availability of ForHousing properties is maximised by preventing the misuse of housing stock.

Tenancy fraud or misuse can present itself in various forms and can occur at any stage during a tenancy lifecycle, the key areas are

- Subletting
- Unauthorised assignment (including mutual exchange)
- Wrongly claiming succession
- Right to acquire / Right to buy fraud
- Obtaining a tenancy through false statement

ForHousing will tackle all instances of suspected tenancy fraud promptly and effectively to ensure that all of its housing stock is obtained legally and utilised by those with a legitimate housing need. Staff members are trained to identify and respond to incidents of suspected tenancy fraud, and where necessary we will take legal action to regain possession of properties and recover any unlawful profits made by tenants where there is evidence of tenancy fraud.

How the policy will be delivered

The Policy will be implemented through the Neighbourhood Management Team and monitored by the Housing Manager and Senior Housing Officer.

Related documents

- Allocations Policy and Procedure;
- Anti-Social Behaviour Policy and procedure
- Decant Policy & Procedure
- Local Lettings Policy;
- Mutual Exchange Policy & Procedure
- Succession Procedure
- Termination procedure

Inclusive Decision-Making Framework (IDMF) Analysis

Date of approved IDMF analysis	28/01/2024
Actions taken forward to mitigate any potential negative impact	N/A

Equality Analysis (Tenants)

<p>Actions taken forward to mitigate any potential negative impact</p>	<p>Policy document to be provided in alternative formats.</p> <p>ForHousing staff to undertake equality and diversity training on an ongoing basis to support the delivery of this policy.</p>
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Data Protection Impact Assessment

Data Protection Impact Assessment (DPIA)

Under the UK GDPR and the Data Protection Act 2018, you are required to carry out a DPIA when developing a new Policy or Procedure that will have a widespread or serious impact on data held on individuals. Careful consideration should be given as to whether the policy or process will have an impact on any processing of personal information that is large scale, involves profiling or monitoring, decides on access to services or opportunities, or involves sensitive data or vulnerable individuals. Information and support regarding this can be obtained from the Data Protection Officer (DPO).

<p>Has a DPIA been completed?</p>	<p>Yes</p>
<p>If a DPIA has been completed, was the DPO consulted?</p>	<p>Yes</p>
<p>If a DPIA has been completed, were any risks identified?</p>	<p>Yes, low</p>
<p>If risks were identified as part of the DPIA process, have mitigation actions been identified?</p>	<p>Yes</p>

Consultation and business intelligence

The Policy was created in consultation with CW&C tenants and representatives of CW&C and ForHousing.

Monitoring arrangements

If staff become aware that there are problems with effective operation of the Policy or the associated procedures, they should report this to the Policy Owner. This feedback will be incorporated into the policy / procedural review process.

Policy summary for the intranet

This policy aims to achieve a practical balance between the high levels of housing need, the under supply of social housing, the changing demographic of tenants and the offer of appropriate tenure.

Words linked to this policy for intranet searches

Tenancy
Mutual Exchange
Affordable rent
Social rent
Succession

Where this policy should be accessible

ForHousing HMC website

Control data and approval history

Policy owner:	CW&C: Lucy Heath, Head of Housing
Next review date:	1 st July 2027

Action	Approved by	Date
Approval – V1.1	CW&C, Cabinet Member of Homes, Planning and Safer Communities	2 nd July 2024

Document revision history

Date	Version number	Version history
May 2024	V1	<p>New Tenure policy–</p> <p>Introductory Policy has now been merged as per tenants request.</p> <p>Changes from original Introductory Policy:</p> <ul style="list-style-type: none">• Clarification about partners being added to the household.• Removal of information about offer tenancies to 17-year-olds as we do not offer this.• Changes to timeframes to contact/ visit new tenant

Date	Version number	Key Changes
28 th June 2024	V1.1	Revised version following tenant feedback: <ul style="list-style-type: none"> • Tenure Policy and Introductory Tenancy Policy combined into one policy. • Improved layout and wording to policy document. • Information about fixed term tenancies included. • Information about Localism Act 2011 included. • Information about lodgers provided in the Introductory section. • Made clear that this policy document can be provided in alternative formats. • Informed about the ongoing equality and diversity training being provided to staff in the delivery of this policy.