

Tenure Policy

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Version number: 4

Date applies from: 13.04.2022

UNCONTROLLED IF PRINTED

Aim of policy

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. This includes:

- Tenure, including mortgage rescue, decants and succession and properties leased from private owners (Lease & Repair)
- Affordable and social rents
- Reducing homelessness
- Making effective use of the stock through promotion of under occupancy schemes
- Supporting tenants struggling to pay rent following changes in benefit regulations
- The role of local lettings policies in facilitating sustainable communities.

This policy does not relate to leasehold, shared ownership properties or market rent tenancies.

Policy

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.

If there is any variance between this policy and individual tenancy agreements or addendums, the tenancy agreement or addendum will take precedence.

We aim to be compatible with our Local Authority Partners objectives through the monitoring of their tenure strategies and policies.

The Group 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 s.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 (excluding Lease and Repair properties and market rent tenancies) will be given a starter tenancy which will run for an initial period of 12 months. Where a tenant adheres to the terms of their tenancy during the initial 12 month period, the tenancy will usually be converted to an Assured Tenancy. Where the terms of the tenancy are not adhered to, the starter tenancy may be extended for a further 6 months. The exception to this is when a new tenant is issued a fixed term tenancy. Refer to Fixed Term Tenancy Policy.

The rights of assured and fixed term tenants will be set out in tenancy agreements 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.

Reviewing Starter Tenancies

ForHousing will monitor starter 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 an assured tenancy.

ForHousing may extend a starter 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 a starter tenancy and will explain the reasons for this decision in writing. Tenants have the opportunity to request a review of this decision.

Ending a Tenancy

A Housing Act 1985 Section 8 Notice of Seeking Possession may be used to commence legal proceedings to end a starter tenancy for ASB, and other reasons for example serious breach of tenancy or rent arrears.

A Section 21 notice may be used to end a starter tenancy in response to breaches of that tenancy, such as Anti Social Behaviour. ForHousing will offer a right to request a review of the decision to serve such a notice. Family intervention tenancies will also be utilised to combat Anti Social Behaviour (ASB) and nuisance where appropriate.

A Section 21 notice will be issued to formally end a fixed term tenancy to take effect on or after the fixed term ends.

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

Affordable and social rents

ForHousing will offer properties at either market, social or affordable rents. All properties let under the mortgage rescue scheme and a proportion of new and re-let properties will be offered at affordable rents. The proportion of new and re-let properties to be offered at

affordable rents and the level of the rent, up to 80% of market rent, will be agreed periodically by the ForHousing Board and in line with Homes England grant funding requirements for conversions. No affordable rent will be set lower than social rent.

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.

Where a tenant undertakes a transfer within ForHousing stock, a new tenancy agreement will be 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 Regional Neighbourhood Manager.

Tenancies for minors

A person aged 16 or 17 may be nominated to us from a local authority as they may have a duty to house them under Part 7 of the Housing Act 1996. However under Schedule 1 (6) of the Law of Property Act 1925 a Minor (under the age of 18) is not capable of holding a legal interest in a property, we will therefore need the tenant to appoint a trustee to hold the tenancy in trust for the minor until they reach 18 and a starter tenancy will be granted.

Tenants with Limited Leave to Remain

If a tenant has limited leave to remain they shall be granted a Starter Tenancy which will convert to an assured 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 in Schedule 2 Housing Act 1988

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. The right to do this has been enforced by the government in The Prevention of Social Housing Fraud Act 2013.

How the policy will be delivered

This Policy refers to partner Local Authority Strategies. If any conflict becomes apparent between the Policy and the local authority strategies, this Policy will be reviewed ahead of the formal review date.

The Policy will be implemented through the Neighbourhood Teams and monitored through customer involvement mechanisms such as Customer Scrutiny and Community Voice.

Related documents

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

Equality analysis

Date of approved equality analysis	24.08.18
Actions taken forward to mitigate any potential negative impact	Regularly monitor allocations and the use of different types of tenancy against the protected characteristics

Consultation and business intelligence

The Policy was reviewed in consultation with colleagues and tenants of 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
Starter Tenancy
Mutual Exchange
Affordable rent
Social rent
Succession

Where this policy should be accessible

ForHousing owned

Control data and approval history

Policy owner:	Director of Neighbourhoods
Next review date:	January 2024

Action	Approved by	Date
Approval	Relevant lead or director	13.04.2022
Approval	Group Executive Leadership Team representative(s)	30.09.17

Approval	Relevant board	N/A
Equality Analysis review and advise	Business Excellence	24.08.18
Health and safety review and advise	Health and Safety	N/A
Legal review and advise	Legal Services Executive	22.09.18
Human Resources review and advise	Human Resources (Trade Union and staff consulted when required)	N/A

Document revision history

Date approved	Version number	Version history
21.03.2019	V1	Previously ForViva Tenure Policy V1. Name change only from ForViva to ForHousing
Date amended	Version number	Key changes
20.01.2020	V2	Paragraph added around tenancy fraud, signed off by Martyn Hague as member of SLT
28.01.2022	V3	Reference made to Fixed Term Tenancy Policy. Name change to Regulator of Social Housing and Homes England
13.04.2022	V4	Inclusion that tenants have the right to request a review of the decision whereby a starter tenancy has been extended