Tenure Policy

Version Number	5.2
Date Applies From	15/11/24
Policy Owner	Director of Neighbourhoods
Next Review Date	29/01/27
Strategy Link	Customer focused and equitable services

Key connected legislation/regulation:

- Housing Act 1985
- Housing Act 1988
- Housing Act 1996
- Immigration Act 2014
- Localism Act 2011
- Tenancy Standard
- Rent Standard

Annual Checks

Policy owners should ensure that an annual check of hyperlinks, roles, and names is undertaken. These checks are in addition to formal review process. Please see Policy and Procedure framework guidance for further details.

If you need this information in an alternative language please call

0161 605 7260

For other formats please call

0300 123 5522

Introduction

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, Intermediate 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.

Scope of 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.

ForHousing 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) 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 formal possession action through Court, 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. Tenants have the opportunity to request a review of this decision.

ForHousing operates a process for appeal for tenants to appeal any decisions applied by ForHousing to extending starter tenancies other than as set out above. Appeals are to be made in writing to the Head of Neighbourhoods within 10 working days of the decision. The Head of Neighbourhoods will investigate, review the decision and advise the tenant of the outcome, in writing within 10 working days of receiving the appeal

Ending a Tenancy

A Housing Act 1988 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 Housing Act 1988 Section 21 notice may also 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, Intermediate and Social Rent

ForHousing will offer properties at either Social or Affordable or Intermediate rent. All properties let under the mortgage rescue scheme and a proportion of new and re-let properties will be offered at Affordable rent. The proportion of new and re-let properties to be offered at Affordable rent 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 for any property

Temporary Move

When a household requires a temporary move to another 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. The impact of tenure, rent and service charge will be clearly communicated, inclusive of in writing to the tenant. 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.

ForHousing operates a process of appeal for applicants to utilise to appeal any decisions applied by ForHousing to granting succession other than as set out above. Appeals are to be made in writing to the Head of Neighbourhoods within 10 working days of the decision. The Head of Neighbourhoods will investigate, review the decision and advise the applicant of the outcome, in writing within 10 working days of receiving the appeal

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 takes 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 appropriate legal enforcement action will be taken.

Where there is evidence of tenancy fraud as defined in The Prevention of Social Housing Fraud Act 2013, ForHousing will work with other agencies including but not limited to, the Police and Local Authorities and where necessary legal action will be taken to regain possession of properties, recover any unlawful profits made by tenants and pursue prosecution in line with the Act.

Equity, Diversity, and Inclusion

We value diversity and work to create an inclusive environment for our customers and colleagues, where everyone has access to the same opportunities. We welcome our responsibility to comply with equalities legislation and regulatory requirements that relate to equity, diversity and inclusion and aim to do more. Through our activities we aim to remove systemic barriers to equal opportunities and eliminate all forms of discrimination, harassment, and victimisation within our organisation.

We are committed to providing excellent customer services, which are fair, equitable and inclusive. As such, we will endeavour to understand and make any reasonable adjustments required for customers in line with ForHousing's Reasonable Adjustment Statement and the Equality Act 2010. Any reasonable adjustment provided will be recorded and kept under active review.

Implementation and Communication

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

This Policy will be communicated to colleagues via the intranet. It will be published on the internet site for tenants and stakeholders.

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

Monitoring, Recording, Reporting

If colleagues 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.

Related Documents

- Allocations Policy
- Allocations Procedure
- Anti-Social Behaviour Policy
- Anti-Social Behaviour Procedure
- Temporary Move Procedure
- Local Lettings Policy;
- Mutual Exchange Procedure
- Succession Procedure
- Termination Procedure
- Fixed Term Tenancy Policy

Co-production

The Policy was reviewed in consultation with colleagues and tenants of ForHousing.

Approval & Review History

With effect from 23/10/2024 the approval route for the Tenure Policy is:

- SLT – EMT

Date	Version	Approved by	Detail
21.03.19	1	EMT Representative	Previously ForViva Tenure Policy V1. Name change only from ForViva to ForHousing.
20.01.20	2	Martyn Hague	Paragraph added around tenancy fraud, signed off by Martyn Hague as member of SLT
28.01.22	3	n/a	Reference made to Fixed Term Tenancy Policy. Name change to Regulator of Social Housing and Homes England.
13.04.22	4	n/a	Inclusion that tenants have the right to request a review of the decision whereby a starter tenancy has been extended.
29.01.24	5	EMT Representative	Full review completed. Policy content transferred to new template. Inclusion relating to information provided to tenants in respect of mutual exchange. Inclusion relating to appeals for succession and extending of starter tenancies. Inclusion of relevant legislation. Expansion of information in relation to tenancy fraud.
06.08.24	5.1	n/a	Inclusion of paragraph related to reasonable adjustment statement of intent.
12.11.24	5.2	n/a	Minor word changes.