

# tenancy management policy

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## 1. Policy statement

- 1.1. The Tenancy Management Policy sets out our approach to providing an efficient and effective tenancy management service. The policy and underlying procedures, which are set out in a tenancy management toolkit, are in place to ensure we provide a service which reflects our statutory responsibilities and good practice. By providing robust and consistent tenancy management, we are doing everything reasonably possible to build vibrant, resilient communities and delivering a high-quality customer service.

## 2. Policy aims

- 2.1. The aims of this policy are directly linked to our vision, values and strategic objectives, in particular:
- To ensure we make the best use of our housing stock, creating thriving, safe and sustainable places and homes people want to live in.
  - To ensure that we meet our statutory and regulatory responsibilities.
  - To provide a decision-making process that is consistent, clear and fair.
  - Ensure customers are offered support and dealt with sensitively and effectively, especially at times of personal grief and difficult circumstances.
  - Ensure processes are inclusive.

## 3. Scope

- 3.1. This policy applies to all homes managed by believe housing. It does not cover assets such as garages, shops or leasehold properties. The Tenancy Management Policy focuses on managing a tenancy, in terms of customer rights and ensuring that customers are aware of their responsibilities and adhere to them. This policy is designed to inform our staff to ensure a fair and consistent service is provided to our customers.
- 3.2. The policy covers the following areas:
- Changes in tenancies including succession, assignment and mutual exchanges.
  - Managing and sustaining tenancies
- 3.3. This policy needs to be read in conjunction with our Tenancy Policy and Neighbourhood Quality Standard.

## 4. Legislation and guidance

- 4.1. There is a range of legislation relating to the management of our housing stock, the main ones being:
- The Housing Act 1985
  - The Housing Act 1988
  - The Housing Act 1996
  - The Housing Act 2004
  - Immigration Act 2014 and the Right to Rent 2014

- Anti-social Behaviour, Crime and Policing Act 2014
- Anti-social Behaviour Act 2003
- Matrimonial Causes Act 1973
- Matrimonial and Family Proceedings Act 1984
- Civil Partnership Act 2004
- Prevention of Social Housing Fraud Act 2013
- Localism Act 2011
- Children Act 1989
- Family Law Act 1996
- Human Rights Act 1998
- Data Protection Act 2018
- Domestic Abuse Act 2021

## **5. Shared ownership and fixed-term tenancies for Rent to Buy, shared tenancies and Market Place, Bishop Auckland properties**

- 5.1. The scope of this policy will only apply to these properties if the tenancy agreements, policies and/or procedures applicable to them do not set out how tenancy management issues will be addressed.

## **6. Changes to tenancies**

### **Starter tenancies converting to assured tenancies**

- 6.1. Details of the tenancies we provide are included within believe housing's Tenancy Policy. When housing a new tenant (not a transferring tenant) we use an assured shorthold tenancy, commonly referred to as a starter tenancy. These are a good tool to help us provide support to those that need it at the start of their tenancy. They also help us deal with breaches in tenancy quickly. After 12 months the starter tenancy will automatically convert to an assured tenancy unless:
- A notice of seeking possession has been served on the tenant.
  - A notice to extend the starter tenancy by a further six months has been served. The starter tenancy can only be extended once.
- 6.2. In cases where a decision is made to serve a notice of seeking possession (where the courts can grant mandatory possession) or notice to extend a starter tenancy is used the tenant would be offered the right to request a review of this decision.

### **Succession**

- 6.3. Succession allows the tenancy to be passed on to certain qualifying people when the tenant dies. The tenancy agreement sets out the rights to succession.
- 6.4. The law allows only one statutory succession to each tenancy. Consequently, on the death of the tenant there can be no further right of succession where the deceased tenant is classed as a successor. Protected tenants (people who were already tenants at the point of transfer

of the housing stock from Durham County Council) will have a right of succession restored if there has already been one succession to the tenancy prior to transfer.

6.5. The deceased tenant is classed as a successor where:

- They became the tenant by succession.
- The tenancy was assigned to them as a potential successor.
- They previously exchanged from another property and had been a successor there.
- They became the tenant under a court order and the previous tenant was a successor.

6.6. Where a joint tenant dies, the tenancy passes to the surviving joint tenant/s automatically, regardless of the relationship between the joint tenants. This is called survivorship and counts as one succession. There can be no further statutory succession.

6.7. If a deceased tenant is not classed as a successor, an applicant will qualify to succeed to the tenancy if they were occupying the property as their main home at the date of the death and either:

- They are the tenant's wife, husband, civil partner, or partner (this includes same sex couples) provided he or she lived with the tenant in the home as their principal home prior to the death of the tenant; or
- They are another member of the tenant's family and has lived with the tenant as a permanent resident for the preceding 12 months. Members of the family means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece.

6.8. Statutory succession overrides any other claims to the tenancy (for example, under the deceased tenant's will).

6.9. Where there is more than one person qualified to succeed, the tenant's spouse or civil partner will have priority. If there are two or more family members entitled to succeed, then they must agree between them which one is to be the successor because only one person can succeed. If they cannot agree, a management decision will be made as to whom the tenancy should pass to.

6.10. A person who succeeds to a tenancy is granted a continuation of the existing tenancy, not a new one.

6.11. There may be circumstances where a property would be much more suitable for other individuals rather than a successor; for example, if the successor is significantly under-occupying or the property is adapted for a disabled person. In such circumstances we may look to rehouse the successor into a more suitable property. The successor would be considered for a direct let under the Durham Key Options (DKO) Lettings Policy. If the successor refuses to move voluntarily then we may serve a notice on the successor between six and 12 months after the previous tenant's death. We would not look to seek possession of a property for under-occupation if the successor was the spouse or civil partner of the deceased tenant. (See section 6.5.1 regarding discretionary tenancies).

## **Assignment**

6.12. Assignment (passing on a tenancy) is only possible for assured tenancies in the following circumstances (as set out in the tenancy agreement):

- As a mutual exchange.
- Where a court orders it as part of divorce or judicial separation proceedings on a termination of a civil partnership under the Matrimonial Causes Act 1973, Matrimonial and Family Proceedings Act 1984 or the Civil Partnership Act 2004.
- Where a court order is granted relating to the tenancy.
- To a potential successor; for example, someone who would have had the right to succeed to the tenancy on the death of the tenant. This is only possible if there has been no previous assignment or succession.

6.13. Assignment is not possible under any other circumstances.

6.14. Starter tenancies may only be assigned in very limited situations, for example:

- In pursuance of a court order
- The assignment is to a potential successor to the tenancy.

6.15. Starter tenants are not capable of assignment for mutual exchanges, as there is no right to exchange on a starter tenancy.

6.16. Demoted tenancies may only be assigned in pursuance of a court order.

## **Assignment by way of mutual exchange**

6.17. Requests for a mutual exchange can be accepted from any public sector tenant who has either a secure or an assured tenancy. We will not permit exchanges with tenants of private landlords. We will only refuse consent on the same grounds as are available for secure tenants and outlined in Schedule 3 of the Housing Act 1985. Where the tenant is in breach of their tenancy (including being in rent arrears) we can impose a condition requiring the breach to be put right. If a condition is imposed, the exchange cannot take place until the breach has been remedied.

6.18. We will give or refuse consent within 42 days of the application to exchange being received.

## **Granting of a discretionary tenancy**

6.19. There are several circumstances where we may consider granting a discretionary tenancy:

### **If no succession right exists**

6.20. If no succession right exists, believe housing may consider the granting of a discretionary tenancy of the current property. This will be a starter tenancy and will be let in accordance with the DKO Lettings Policy. Each case will be considered on its merits following receipt of a

written request to remain in the property, which must be received no later than two months after the tenant's death.

### **Sole to joint tenancy**

6.21. A sole tenant may apply for a joint tenancy, When considering such a request we will consider the following:

- If there are breaches in the conditions of the tenancy and whether these breaches are sufficiently serious that they would prevent a new tenancy being awarded
- The relationship between the proposed joint tenant and the existing tenant. The proposed joint tenant must be living at the property as his or her main home at the date of the proposed joint tenancy. They must be either:
  - The tenant's spouse or civil partner or
  - Another member of the tenant's family or
  - Someone who has been living with the tenant together as if they were married or within a civil partnership and has lived with the tenant of the whole of the previous 12 months

### **Joint to sole tenancies**

6.22. If a joint tenant no longer wishes to remain the tenant, they can terminate the tenancy and the remaining tenant can be considered for a new sole tenancy. When considering such a request we will consider the following:

- If there are breaches in the conditions of tenancy and whether these breaches are sufficiently serious that they would prevent a new tenancy being awarded.
- The proposed sole tenant must be living at the property as his or her main home at the date of the proposed sole tenancy.

### **Exceptional circumstances**

6.23. We may consider a discretionary tenancy in exceptional circumstances; for example, if there are technical circumstances that prevent one of our properties being occupied.

6.24. A new tenancy will be granted at the discretion of the organisation and in accordance with the Durham Key Options (DKO) Lettings Policy. This will include appropriate checks to ensure that the proposed tenant would be eligible to join the housing register; for example, in relation to any previous history of antisocial behaviour or in relation to their immigration status.

## **7. Fixed-term assured shorthold tenancies – Rent to Buy, shared tenancies, and Market Place, Bishop Auckland**

7.1. Our Tenancy Policy identifies that we will grant a two-year fixed-term assured shorthold tenancy (FTAST) for the shared tenancy scheme and for new tenancies of our properties at Market Place, Bishop Auckland. A one-year fixed term is offered at the start of our Rent to

Buy tenancies, after which they convert to a periodic assured shorthold tenancy.

- 7.2. The shared tenancy is provided as an option for people interested in sharing with others. The tenancy will provide sole occupancy of the bedroom and shared access to communal areas. Shared tenancies are available as two-year fixed-term assured shorthold tenancies to enable believe housing to assess the benefits of other implications of this option and its impact on customers.
- 7.3. FFAST for the Market Place properties and shared tenancies will be let through DKO and, for the shared tenancy scheme, a local lettings policy has been agreed by the DKO Board setting out the eligibility criteria that will apply. Rent to Buy FFAST are offered on a first come, first served basis for those who meet the eligibility criteria.
- 7.4. There are also requirements should an existing tenant with an assured tenancy wishes to enter into a FFAST. A FFAST is a less secure tenancy than an assured (non-shorthold) tenancy. It is important that prospective tenants who are considering giving up their assured (non-shorthold) tenancy fully understand this, and we recommend to customers that they receive independent advice before they make any decision in this regard.
- 7.5. We will provide a clear, plain English guide to the FFAST, setting out the difference in tenure between it and an assured tenancy. If the prospective tenant decides that they still wish to proceed with the tenancy, then if they are a believe housing assured tenant, they must also serve believe housing with a notice (in a prescribed form) before they take the FFAST.
- 7.6. Towards the end of the fixed term, we will contact the tenant to notify them that we propose to either grant another tenancy on expiry (subject to policy requirements) or to end the tenancy, in which case we would seek to rehouse the tenant elsewhere (subject to policy requirements).
- 7.7. If we decide not to grant a new tenancy and have been unable to rehouse the tenant elsewhere then we will help the tenant to find alternative accommodation by providing advice and assistance, in partnership with the Housing Solutions team at Durham County Council, or equivalent in other local authorities, We will endeavour to find suitable, affordable, alternative accommodation that meets the needs of the customer.
- 7.8. If a tenant or prospective tenant feels that the decision regarding their fixed-term tenancy is incorrect or does not take into account relevant information, then they can raise this through the believe housing complaints process.

## **8. Managing and sustaining tenancies**

### **Monitoring tenancies and the condition of our properties**

- 8.1. Effective management is necessary to ensure our customers can live comfortably in their homes. We expect that tenants will maintain their properties in a reasonable condition at all times in accordance with their tenancy agreement. We will monitor to check that all of our tenants keep to the terms of their tenancy agreement and take appropriate action to resolve any breaches effectively. Where a customer requires it, we will provide support or signpost



them to external support agencies.

- 8.2. We will carry out and promote regular tenancy visits and estate inspections to focus on the quality of the neighbourhoods.

#### **Customer tenancy visits**

- 8.3. We will use the customer tenancy visit and other contacts we have with customers as a means of ensuring that we deliver an effective, efficient and high-quality service including:

- Updating customer profile information, identify vulnerable customers and appropriate support where required.
- Picking up any repair or neighbourhood issues.
- Ensuring the customer is aware of the different ways of contacting us, particularly promoting digital access.

We will also take the opportunity during the visit to:

- Ensure the enforcement of tenancy conditions and that the property has not been damaged, neglected or used unlawfully.
- Ensure that the property is occupied by the tenant and has not been sub-let or abandoned.

#### **Social housing fraud**

- 8.4. We will take appropriate action in relation to possible social housing fraud including:

- Unauthorised sub-letting.
- Non-occupation by the tenant.
- Anyone fraudulently obtaining a social housing tenancy.
- Anyone wrongly claiming succession or unauthorised assignment of a tenancy.
- Key-selling – where a tenant passes the keys for a property on to someone else in return for a payment or favour.

#### **Abandoned properties**

- 8.5. We recognise that tenants may be away from their homes for an extended period for a number of reasons. Where we believe that the tenant may have abandoned the property (including anonymous notification) we will take appropriate action, in accordance with the legislative requirements and our abandonment procedure.

#### **Lodgers and sub-letting**

- 8.6. We recognise that there will be situations where a customer may wish to rent out a room in their home in which case the new occupier will be referred to as a lodger (or sub-tenant). Taking in a lodger may help meet a local housing need and reduce a customer's financial

commitment for under-occupying a property.

- 8.7. Under the terms of the tenancy agreements, tenants may not sub-let their property and must use it as their principal home. We may, however, allow an assured tenant to sub-let part of their home with our written agreement. The legal relationship between the tenant and the landlord remains the same. The tenant's responsibility for payment of rent and charges, and adherence to the tenancy terms remains unaffected.

### **Overcrowding and under-occupation**

- 8.8. We recognise that in some instances accommodation may, due to family circumstance, become too small or too large for the household needs. For example, this may be where a tenant has two or more unoccupied bedrooms.
- 8.9. Where such issues arise, we will work with the tenant, if they wish to be rehoused, to find the most suitable housing option available to them through the DKO Lettings Policy. We will also inform prospective tenants of the potential impact on their benefits if they under-occupy according to the government's definition of this.

### **Ending a tenancy**

- 8.10. When a customer wants to end their tenancy, they must give four weeks' notice in writing. If a tenant is moving through DKO two week's notice would be accepted, in accordance with the DKO Lettings Policy. Managers may agree a Deed of Surrender in exceptional circumstances.
- 8.11. The grounds upon which a landlord can serve notice to end a tenancy are set out in the tenancy agreement. For customers who were tenants of Durham County Council at the time of transfer of the housing stock, their tenancy includes protected key rights including restricting the grounds on which possession can be sought to those that would have been available to Durham County Council.
- 8.12. If, by serving the appropriate notice, the law then allows for mandatory possession to be sought through the courts, believe housing will afford the customer to request a review of this decision.

### **Death of a tenant**

- 8.13. When a tenant dies, the executor can end the tenancy by surrender or by giving notice to quit. If we do not receive a termination notice, then we will serve a notice to quit on either the Personal Representative or the Public Trustee.
- 8.14. If the deceased tenant is the only occupant of the property, we will cancel two weeks rent charges following the death and prior to the keys being returned.

## **Withdrawal of notice by a tenant**

8.15. A termination of a tenancy is a legal binding document and the decision to accept a written withdrawal of the notice to terminate is discretionary. A management decision will be made on whether to agree to the withdrawal of the termination on the individual circumstances and information available regarding the conduct of the tenancy.

## **9. Monitoring and review**

9.1. Annual key performance indicators and local performance targets will be set in relation to the delivery of the housing management service, These will be reported to board, performance and standards committee and senior management teams as appropriate.

9.2. This policy will be reviewed every three years or because of:

- changes in relevant legislation
- any issues raised about the policy by an independent organisation (such as an assessment by the Regulator of Social Housing) which then in the opinion of believe housing would require a review of this policy.

## **10. Training and awareness**

10.1. Staff, including new starters, receive comprehensive training on our policies and procedures. These policies and procedures are regularly reviewed, and staff updated as appropriate. We also work closely with the organisation's Communications Team to ensure that important messages are relayed to our customers.

## **11. Links to other policies and procedures**

11.1. This document should also be read in conjunction with:

- Tenancy Policy
- Antisocial Behaviour Policy
- Rent to Buy Policy
- Durham Key Options Lettings Policy
- Tenancy Management Toolkit
- Shared Ownership Policy.