

Housing Landlord Services

Affordable Housing Tenancy Policy

1	Introduction
1.1	The Localism Act 2011 introduced Tenancy Policies as part of a wider package of social housing reforms. Under the Act, Local Authorities with a strategic housing role are required to have a Tenancy Strategy setting out the issues which registered providers operating in their area must have regard to when deciding what types of tenancies to offer, details of any fixed-term tenancy, and the circumstances in which they will grant a new tenancy when a fixed term tenancy comes to an end.
1.2	This Tenancy Policy takes account of the Council's Tenancy Strategy and summarises the Housing Landlord Services approach to tenancy management and the types of tenancies we offer for our affordable housing.
2	Scope
2.1	This Tenancy Policy provides current Eastleigh Borough Council tenants and those on the Housing Register who would like to become tenants with an overview of the tenancies we offer.
2.2	It also provides a summary of some of our key tenancy management procedures and details of how we will try to help tenants to sustain their tenancies.
3	Types of tenancy
3.1	We offer the following types of tenancy for both new build and re-lets advertised using Hampshire Home Choice.
	Introductory tenancy
3.2	Those tenants who do not already hold a secure or assured tenancy with Eastleigh Borough Council or another social housing provider, will initially be offered an introductory tenancy.
3.3	These are probationary tenancies that normally last for 12 months but can be extended for a further 6 months. The introductory tenancy will automatically become a secure tenancy after 12 months if the tenancy has been conducted successfully or at the end of any extension period.

3.4	The introductory tenancy is an opportunity for the tenant to demonstrate that they can maintain a tenancy and comply with the tenancy conditions. The introductory tenancy will be reviewed during the 12-month term to confirm whether the tenant can become a secure tenant with a lifetime tenancy, extending their rights within the tenancy agreement.
3.5	Introductory tenants have fewer rights than secure tenants and can be evicted much easier if the terms of the tenancy agreement have been breached.
3.6	Full details of the statutory rights of introductory tenants and secure tenants are clearly marked in the tenancy agreement and the tenant handbook.
Secure tenancy	
3.7	We will give secure tenancies to tenants who are existing secure tenants with Eastleigh Borough Council or are secure/assured tenants with another social housing provider.
3.8	We will also give a secure tenancy to a victim of domestic abuse who has or had a lifetime tenancy (whether with a local authority or housing association) in accordance with the provision in the Housing Act 1985.
3.9	An introductory tenancy will automatically become a secure tenancy after 12 months if the tenancy has been conducted successfully or at the end of any extension period.
3.10	Secure tenants have full security of tenure and tenancy rights as set out in the tenancy agreement and the tenant handbook.
4 Other types of tenancy	
4.1	Customers nominated by the Homelessness Service for temporary accommodation, will be offered a non-secure tenancy agreement.
4.2	Full details of the rights and responsibilities of non-secure tenants are clearly set out in the tenancy agreement and the temporary accommodation tenant handbook.
5 Minors and tenancies	
5.1	A person under the age of 18 cannot hold a legal tenancy. In these circumstances we will seek to grant a tenancy to an adult such as a member of the minor's family or if this is not possible, to another adult, for example a social worker who will hold the legal tenancy on trust for the minor's benefit until they reach 18.
6 Rents	
6.1	Depending on the funding stream used to secure/build the property we will offer either a social or affordable rent.
6.2	Affordable rents can be up to 80% of local market rents. As part of our commitment to ensure that rents remain as affordable as possible to local people, we will ensure affordable rents are set at or below Local Housing Allowance rates.

6.3	Social rents will be set using the formula set by central government. The aim of this formula-based approach is to ensure that similar rents are charged for similar social rent properties.
6.4	We will write to all tenants, every year to tell them what their rent will be for the next year.
7	Tenancy agreements, responsibilities and sign up
7.1	We have one generic tenancy conditions document, covering introductory and secure tenancies.
7.2	This document is written in plain English in a style easily understood by tenants.
7.3	We will ensure that all tenants are fully informed about their tenancy rights and obligations prior to signing their tenancy. All tenants will also be provided with a tenant handbook.
7.4	The sign-up process will involve a pre-tenancy assessment where a financial assessment and other tenancy checks will be made prior to the tenant being offered the tenancy and the formal paperwork signing granting the tenancy takes place.
7.5	Any tenant who is refused a tenancy will be provided with the reasons why and will be given appropriate advice on what they can do to improve their chance of being housed by us in the future.
7.6	We require rent in advance from the tenant at the sign up. We will request up to one month's rent in advance based on the tenants financial situation.
8	Tenancy reviews and visits
8.1	We will visit all tenants within the first six weeks of their tenancy. This is to check how the tenant is settling in and is a chance for both us and the tenant to raise any issues of concern.
8.2	All introductory tenancies will be reviewed at their ninth month to assess whether the tenancy can convert to secure, on the first anniversary of the tenancy commencement.
8.3	Where issues are identified, further reviews/visits will be completed to ensure all appropriate action has been taken. Where an introductory tenancy is extended to 18 months, further reviews/visits will take place during the extension period to ensure that it is appropriate for the tenancy to become secure or take action to end the tenancy. More information about possession action for introductory tenancies and appeal rights is available in the tenant handbook and the introductory tenancy procedure.
8.4	After that, we will endeavour to visit tenants annually and as and when required.
8.5	Tenancy visits allow us to:

<p>8.6</p>	<ul style="list-style-type: none"> • Make sure the tenant is living in the property • Update records if there have been any changes in the household • Make sure the property, including any garden areas, are being maintained and looked after • Identify any repairs, including damp and mould issues • Identify any other needs that the tenant may have which we can help with <p>Tenancy visits allow the tenant to:</p> <ul style="list-style-type: none"> • Report repairs • Raise any issues of concern • Update their records • Ask any questions they may have about their home or their tenancy
<p>9 Managing tenancies</p>	
<p>9.1</p>	<p>We will ensure that tenants are aware of their rights and obligations when they sign up for their tenancy. These terms are set out in the tenancy conditions.</p>
<p>9.2</p>	<p>The Housing Landlord Service has a range of tenancy management procedures documenting our approach to tenancy issues and the management of the housing stock.</p>
<p>9.3</p>	<p>Some of the key principles are outlined below.</p>
<p>10 Succession</p>	
<p>10.1</p>	<p>The rights of succession are set out in Housing Act 1985 and the provisions introduced by the Localism Act 2011. This section provides a summary of the relevant parts of the law.</p>
<p>10.2</p>	<p>If a tenant dies, their tenancy may be passed on to their spouse or civil partner. By law there can only be <u>one</u> succession. If the deceased tenant had succeeded to the tenancy following the death of the previous tenant or through assignment there can be <u>no</u> further succession.</p>
<p>10.3</p>	<p>If there is a joint tenancy and one of the tenants die, the surviving tenant will automatically succeed to the tenancy by survivorship.</p>
<p>10.4</p>	<p>If there is a sole tenancy, this can then be passed on to a spouse or civil partner providing that they lived in the property as their only or principal home when the tenant passed away.</p>
<p>10.5</p>	<p>Where there is no-one eligible to be a successor, we may grant a new tenancy to a person who lived with the tenant but there is no automatic right to remain in the property. We will decide on whether to grant a new tenancy (at the current property or at a property which meets the persons housing need) in accordance with our Left in Occupation Policy which considers the following criteria:</p> <ul style="list-style-type: none"> • fulfil the definition of persons qualified to succeed the tenant under Section 86A of the Housing Act 1985 (should this right have not already have been used)

	<ul style="list-style-type: none"> • have support needs or be vulnerable because of old age, mental illness, physical disability or other special reason (or a person who resides with them is) • meet the homeless criteria as having a priority need for accommodation under Section 189 of the Housing Act 1996.
10.6	<p>Other factors that may be taken into consideration include the:</p> <ul style="list-style-type: none"> • relationship to the tenant if they would not qualify as a successor • length of residency • reason for residency
10.7	<p>Where we decide not to offer a new tenancy, the person will be advised in writing of the reasons why not and given information about the housing options available to them. If they do not leave the property, legal action will be taken to recover possession of the property.</p>
11	Assignment
11.1	<p>Assignment is the process whereby a tenancy can be passed on to another person whilst the tenant is still alive. The Housing Act 1985 sets out the law in relation to assignment and this section provides a summary of the relevant parts.</p>
11.2	<p>A sole tenant can pass their tenancy on a person who would be entitled to succeed if they have not previously succeeded to or been assigned the tenancy themselves. It can only be achieved through a legal document called a Deed of Assignment, unless the assignment is by way of a court order.</p>
11.3	<p>The tenant will require our permission to assign the tenancy.</p>
11.4	<p>We recommend the tenant seeks independent legal advice before assigning their tenancy to another person.</p>
12	Mutual exchange
12.1	<p>Secure tenants have the right to exchange their home by assigning the tenancy to another secure tenant of a local authority or with an assured tenant of a registered social landlord. Permission to exchange can be refused in certain circumstances, as set out in Schedule 3 of the Housing Act 1985.</p>
12.2	<p>The written permission of the Council and any other landlord must be obtained prior to any exchange of homes. We have 42 days in which to consider and respond to the exchange request. If the exchange is refused, we will explain the reasons why. We also participate in the HomeSwapper scheme which is free for tenants to use.</p>
12.3	<p>If an exchange takes place without our consent, this is an unlawful act and all parties will be required to move back to their original homes or we will take legal action to obtain possession.</p>
13	Tenancy changes
	Sole to joint

13.1	There is no right to 'add' a tenant to an existing tenancy. The sole tenancy would have to be terminated and a new joint tenancy granted. This is not something we will normally facilitate.
13.2	Where the tenant wishes to add their spouse or civil partner, this person should already be afforded rights to the tenancy under the law of succession and assignment as set out in the Housing Act 1985 together with other statutes such as the Family Law Act 1996 and the Civil Partnership Act 2004 and this will be explained to the tenant.
Joint to sole	
13.3	Where a joint tenant wishes to remove themselves or the other joint tenant from the tenancy there are circumstances when we can facilitate this by ending the joint tenancy and creating a new sole tenancy.
13.4	In the first instance, the tenant/s will be required to explore other legal remedies available to them, such as a Property Transfer Order or an Occupation Order. Where these legal remedies are not available or an option, we will confirm whether a new sole tenancy can be granted at the property taking into account all relevant circumstances.
13.5	If the request to create a new sole tenancy at the property is declined, the tenant/s will be advised of the reasons in writing and how and where to obtain advice regarding the other options available.
14 Ending a tenancy	
14.1	Tenants must give four weeks' written notice to end their tenancy, unless they are transferring to another property owned by us in which case two weeks' written notice is required.
14.2	A joint tenancy will end if one or both tenants give notice.
14.3	When a tenant dies, we expect their next of kin or executor to give four weeks' notice to end the tenancy.
14.4	We may bring a tenancy to an end if the tenant has lost their security of tenure, for example they no longer occupy the property as their only or principle home, by serving a Notice to Quit. Court proceedings to end the tenancy will be taken where needed.
14.5	All tenancies issued by us can be ended by a court order. This requires us to serve the correct notice advising the tenant that possession proceedings are to be taken. The discretion of the court to grant possession differs depending on the type of tenancy.
15 Tenancy support	

15.1	We will assist those tenants who require further support or who are vulnerable and need support to sustain their tenancy. We will offer advice, support and signposting to those who need it through our own support service and through working in partnership with other agencies.
15.2	Support needs will be discussed with tenants at their tenancy sign up and throughout their tenancy as and when appropriate
16	Tenancy fraud
16.1	Tenancy fraud covers any situation where the person or people living in a council property are not the persons who are entitled to be there. This includes: <ul style="list-style-type: none"> • Giving false information on an application for housing • Subletting the property to another person • Not using the property as their only or principal home • Claiming succession when there is no entitlement
16.2	We will take measures to prevent and identify causes of tenancy fraud and will investigate all allegations of fraud or potential fraud thoroughly. Appropriate action will be taken against any tenant found to be committing tenancy fraud including criminal action.

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