



## Havebury Housing Partnership

# Tenancy Policy

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Equality & Diversity Impact Assessment	In Progress
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## **1 Responsibility**

- 1.1 The Operations Committee is responsible for approval with oversight of this policy, as well as how it is implemented.
- 1.2 The Tenancy and Estates Services Manager, Supported Housing & Income Manager and delegated staff are responsible for compliance with this policy in the management of tenancies.
- 1.3 The Allocations and Voids Manager and delegated staff are responsible for issuing tenancies in-line with this policy.

## **2 Definitions**

- 2.1 This policy applies to the management of tenancies and licenses in residential properties owned and/or managed by us including:

- Social Rent
- Affordable Rent
- Intermediate Rent / Non regulatory affordable rent
- Shared ownership
- Temporary Accommodation

- 2.2 Also detailed are the agreements granted in the letting of:

- Allotments
- Garages
- Garage Sites

## **3 Aims and Objectives**

- 3.1 This policy is designed to provide an outline of our approach to managing tenancies and licenses, in line with regulatory and legislative requirements.

## **4 Policy Statement**

### **4.1 The Types of Tenancies We Will Grant**

- 4.1.1 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.
- 4.1.2 We will not grant new and transferring tenants less security of tenure as a result of their move into a Havebury home.
- 4.1.3 The types of agreements we grant are detailed in Appendix 1. To summarise our aims for residential tenancies.
  - Where we issue lifetime tenancies, we do so to give security to households and provide the opportunity for communities to develop.
  - Where we offer starter tenancies, we do this to safeguard against tenants causing anti-social behaviour and impacting on communities.

- Where we are providing temporary accommodation, we grant licenses to help people who are homeless.
  - We do not issue Fixed Term Tenancies in our general needs rented homes.
- 4.1.4 Tenants benefitting from a preserved right to buy will retain this right when transferring or exchanging between Havebury homes but can only exercise it in qualifying properties.
- 4.1.5 Properties which do not qualify for the preserved right to buy:
- Homes let at an affordable or intermediate rent
  - Properties built or acquired after 24<sup>th</sup> June 2002
  - Older persons housing
  - Supported housing
  - Properties in some rural areas
- 4.1.6 The right to acquire exists for assured tenants where the eligibility criteria are met.
- 4.1.7 Prior to implementation of this policy, we issued Assured Shorthold Fixed Term tenancies. We have issued a legal notice to these tenants which has the effect of converting their tenancies to an Assured Tenancy. These tenancies become periodic once the fixed term has expired.
- 4.2 Tenancy Sustainment and Preventing Eviction
- 4.2.1 The supporting policies and procedures detail our approach to managing tenancies and preventing eviction.
- 4.2.2 Recovering possession is usually considered a last resort where other interventions have failed, although there may be cases where possession is a proportionate remedy without the use of other interventions.
- 4.2.3 We will follow the pre-action protocol for possession claims brought by social landlords as published by the Ministry of Justice from time to time.
- 4.2.4 We are committed to working with partners to prevent homelessness; where possession action is being taken a referral will be made to the relevant Local Authority.
- 4.3 Review of Decisions Affecting Tenancies
- 4.3.1 In line with the pre-action protocol, we will seek to understand the personal circumstances of any occupier subject to mandatory claim for possession with the exception of squatters.
- 4.3.2 The right to a review is offered in the following circumstances:
- Notice of extension of a starter tenancy from 12 to 18 months
  - Service of a s21 Notice Requiring Possession
  - Service of a Notice Seeking Possession on mandatory grounds

4.3.3 Reviews will be undertaken by a Director who was not involved in the original decision.

#### 4.4 Managing Occupation

4.4.1 We analyse data and receive reports from the community to pro-actively identify and tackle all aspects of tenancy fraud, sub-letting and abandonment, working with fraud investigation teams and supporting prosecutions where possible.

4.4.2 In tackling under-occupation we support tenants to sustain their tenancies with welfare and benefits advice and the right to take in a lodger.

4.4.3 In tackling overcrowding and under occupation we offer free access to mutual exchange services and signpost households to their Local Authority for consistent and fair assessment of need and assistance with finding more appropriate accommodation.

#### 4.5 Mutual Exchange

4.5.1 We will promote mutual exchanges as a means of making best use of housing stock.

4.5.2 Tenants can access 'House Exchange', free of charge, to advertise their homes and see homes of others to initiate mutual exchanges.

4.5.3 We will not unreasonably refuse exchanges, though reserve the right to do so in the following circumstances:

- Where grounds for refusal are met, as detailed in appendix 2.
- Where the exchange will result in occupancy which contravenes planning restrictions, for example in rural homes designated for occupation by people with a local connection

4.5.4 Where approval for an exchange is given, it will be conditional on satisfactory tenancy conduct, including rent payments, property condition and behaviour, and the satisfactory completion of any essential repairs and safety checks of the property.

4.5.5 The exchange shall not be completed until the property is in a reasonable and safe condition. If the tenant does not complete remedial repairs within a reasonable timescale then we will cancel the process and ask the applicant to re-apply once the work is complete.

4.5.6 All exchanges will be completed by deed of assignment. Fixed Term tenants as described in 4.1.6 are able to exchange their tenancies by assignment because notice has been served to convert these to a lifetime status. The provision of s158 of the Localism Act will only apply in very limited circumstances<sup>1</sup> and where these occur, we will ask the incoming tenant to become a tenant of Havebury by way of assignment.

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<sup>1</sup> S158 Localism Act will only be triggered in the following circumstance: a Havebury tenant holds an assured tenancy which commenced before 1<sup>st</sup> April 2012 of a social rent property, and wishes to exchange with a tenant of another landlord who holds a fixed term tenancy of a social rent property. In this instance, the other landlord must grant a tenancy with lifetime status to the former Havebury tenant and we would ask the incoming tenant to assign into our tenancy.

#### 4.6 Tenancy Changes

- 4.6.1 We recognise that household circumstances may change during the course of the tenancy. Changes to tenancies can only be effected with our permission.
- 4.6.2 Where relationships between joint tenants have ended, we may allow the tenants to assign the tenancy into one of their names.
- 4.6.3 We may allow sole tenants to add their spouse, civil partner or partner to their tenancy agreement provided that there had not been a prior succession or assignment.
- 4.6.4 Where an assignment is decreed by the Court, we will act in accordance with the Court's determination.

#### 4.7 Succession

- 4.7.1 Only one succession can take place per tenancy. As agreed at the point of Havebury's inception, all successions to tenancies prior to 24 June 2002 will not be taken into account.
- 4.7.2 In the event of the death of a tenant, the Housing Act grants statutory rights for a tenancy to be passed to spouse, civil partner or people living together as if married or in a civil partnership. If the tenancy is a joint tenancy, then the remaining tenant will succeed to the tenancy by survivorship.
- 4.7.3 In addition to this, we may grant contractual rights of succession to:
- other members of the family, provided they have been living with the tenant as their main or only home for at least one year prior to the death of the tenant; or,
  - a person not of the tenant's family who has been living with the tenant as their only or main home for one year prior to the tenant's death and who has been looking after the tenant in that time; or,
  - A household member who has accepted responsibility for the tenant's dependants.
- 4.7.4 For contractual successions we will review the suitability of the property for the household. Household need assessments will be undertaken using the Government Local Housing Allowance guidelines and we will allow a maximum of one spare bedroom. Where the needs of the household do not match the size or nature of the accommodation, or if the property is not affordable for them, we may not agree to the succession and may require the household to find suitable alternative accommodation.

#### 4.8 Right to Rent

- 4.8.1 Where the granting or assignment of a tenancy is undertaken outside of the Local Authority verification process, we will undertake Right to Rent checks to confirm immigration status and eligibility to rent in the UK.

## 5 Legislation and Regulation

- Regulator of Social Housing: Tenancy Standard
- Housing Act 1985
- Housing Act 1988
- Housing Act 1996
- Immigration Act 2014
- Protection from Eviction Act 1977
- Localism Act 2011

## 6 Service Standards

### 6.1 Decisions Affecting Tenancies

6.1.1 Requests to review the extension of a starter tenancy will be completed in writing within 10 working days of request.

6.1.2 Reviews of decisions to apply for possession on mandatory grounds will be undertaken by oral hearing or written representation within 28 days of request. The decision after review will be communicated within 5 working days of oral hearing or receipt of written representations.

### 6.2 Mutual Exchanges

6.2.1 If we have reasonable grounds to refuse an application, the decision will be made and communicated within 42 calendar days (6 weeks) from the date of application.

6.2.2 We aim to complete the exchange within 10 weeks from the date of application.

6.2.3 Where application forms are received from multiple parties in one exchange the date of application will be recorded as the date on which the latest application is received.

### 6.3 Tenancy Changes

6.3.1 We will aim to process all requests for tenancy change within 42 days (6 weeks) of application.

## 7 List of Related Internal Documents (including procedures relating to the Policy)

HS035 Allocation and Lettings Policy

HS039 Bedroom Size Policy

HS015 Anti-Social Behaviour

HS046 Pets Policy

HS026 Domestic Abuse and Violence Policy

HS022 Housing Related Support

P003 Allocations Procedure

P043 Anti-Social Behaviour Procedures

P034 Tayfen House Procedures

P021 Right to Buy Procedures

P026 Starter Tenancies Procedure

P041 Review of Possession Decisions on Mandatory or Absolute Grounds

Mutual Exchange Procedures

Abandonment Procedures

Tenancy Change Procedures

## Appendix 1: The tenancies we grant

This section applies to grant of tenancies in the following circumstances.

- Lettings
- Management transfers / direct lets

In properties let at **Social and Affordable Rent**

In **general needs and older persons housing**

Starter Tenancy	Starter tenancies will be granted in the following circumstances: <ul style="list-style-type: none"><li>• the applicant does not hold a tenancy, including those residing in a property on a 'use and occupation' basis.</li><li>• the applicant holds an Assured Shorthold tenancy.</li><li>• the applicant holds a Starter tenancy</li></ul>
Assured Tenancy	Assured Tenancies will be granted when the applicant(s) currently hold an Assured, Secure or Fixed Term tenancy.  This will include the following circumstances: <ul style="list-style-type: none"><li>• Internal transfers</li><li>• Tenants coming to us from another landlord</li></ul>

Equitable starter tenancies may be granted to people under the age of 18, the tenancy held on trust by a third party until they reach the age of 18.

Assured tenancies will be issued in **Supported Independent Living Housing**

Licenses will be granted in **temporary accommodation**, including:

- Domestic Violence refuge
- Hostel accommodation
- Temporary accommodation provided on behalf of the local authority under s209 Housing Act 1996

Assured Tenancies will be granted in **shared ownership** properties

Assured shorthold tenancies, with a six-month fixed term will be granted in **intermediate rent and non-regulatory affordable rent** properties.

Licenses will be granted in the letting of **garages, garage sites and allotments**.

## Appendix 2 - Grounds for refusal of a mutual exchange

- 1.1 We will refuse exchanges where the exchange will result in occupancy which contravenes planning restrictions, for example in rural homes designated for occupation by people with a local connection.
- 1.2 The grounds for refusal below may be relied upon to refuse an exchange of assured tenancies.
- 1.3 Grounds 1-10 match those in Section 92 of the Housing Act 1985, and Schedule 3 of the Housing Act 1985 and apply to all Assured tenancies, including transfer preserved Assured tenancies.
- 1.4 Grounds 11, 12 & 13 do not apply to transfer preserved assured tenancies.
- 1.5 For Grounds 3 & 4, household size needs will be assessed using the Government Local Housing Allowance guidelines.
- 1.6 For Ground 3, one spare bedroom may be allowed, provided it does not result in affordability issues for the tenant. Two or more spare bedrooms will result in the refusal of the proposed exchange, except in exceptional circumstances.

Ground 1	The tenant or proposed assignee is subject to a court order
Ground 2	Possession proceedings have begun for the property of which the tenant or proposed assignee is the tenant, a relevant notice has been served on the tenant or the proposed assignee, a court order or suspended order in place, or an application is pending before court
Ground 3	The home they want to move to is much larger than the household needs
Ground 4	The home they want to move to is too small for their household, and they would be overcrowded
Ground 5	The tenant works for the landlord and their home was provided in connection with their job
Ground 6	The landlord is a charity and the proposed new tenants moving into the property would conflict with the objects of the charity (the home is intended for a certain group of people)
Ground 7	The property has been adapted or has features that make it suitable for disabled person and if the mutual exchange took place there would no longer be such a person living in the property

Ground 8	Is a property owned by a landlord which lets properties to particularly vulnerable people and if the mutual exchange took place there would no longer be such a person living in the property
Ground 9	The property is for people with special needs (supported housing) and if the mutual exchange took place there would no longer be such a person living in the property
Ground 10	There is a management agreement or membership arrangements in place for the property (i.e. the management of communal areas) and the proposed assignee is not prepared to join the management agreement
Ground 11	<i>Following a review of the household's financial circumstances and benefits entitlement, the property is deemed to be unaffordable.</i>
Ground 12	<i>There are rent arrears, debts, court costs or other charges owed to Havebury</i>
Ground 13	<i>There are restrictions on who can occupy the property, which the incoming household does not meet (for example age restrictions or local lettings plans)</i>