

Group Policy

Tenancies

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1. Glossary and Definitions

Affordable Rent		Rents set at up to 80% of market rents. Surplus is used to part-fund new housing development
HCA		Homes and Communities Agency. Government agency which promotes and funds new housing development. Likely to take on some of the regulatory role from the TSA in 2012
Localism Act 2011	Act	Changes the basis for publicly funded affordable housing
RP		Registered Provider. Refers to housing associations and other publicly funded housing providers
TSA		Tenant Services Authority. The Regulator of RPs due to be abolished by the Localism Act in 2012
NSD		Neighbourhood Services Director
NSM		Neighbourhood Services Manager
NTM		Neighbourhood Team Manager
SHG		Spectrum Housing Group

2. Scope

This policy sets out the types of tenancy agreement that will be used by the Associations when letting their properties. It also determines the criteria to be used when reviewing fixed term Affordable Rent tenancies.

The terms upon which each type of tenancy can be let and brought to an end are determined by law. In their current form, they were introduced by the Housing Act 1988 and amended by the Housing Act 1996 with effect from 28 February 1997. Further changes will follow on from implementation of the Localism Act 2012.

The legal requirements are supplemented by guidance and regulations from the Regulator for Private Registered Providers (PRPs), which from April 2012 is the Homes and Communities Agency following the Localism Act coming into force in 2012.

It is the intention that the Associations will offer a form of tenancy which meets the needs of the tenant's household and follows good practice in supplementing the legal requirements with other suitable protections.

In framing its policy Spectrum Housing Group will have regard to the published Tenancy Strategy Policies issued by local authorities in its areas of operation.

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2.1 Companies

The procedure applies to the following Group companies:

- Medina Housing Association
- Signpost Housing Association
- Signpost Care Partnership
- Western Challenge Housing Association

2.2 Housing Stock

This policy applies to the issue of tenancies for the following stock:

- general rented
- housing for older people
- supported housing
- intermediate rented
- garages

This procedure does not include the process for issuing tenancies for our NHS Key worker or Student housing. This is dealt with separately.

3. Tenancy Types

3.1 Standard Assured Tenancy

The Assured Tenancy is the standard form of tenancy in use by the Associations. The terms of an Assured Tenancy are laid down in statute by the Housing Act 1988 (as amended) and also governed by regulations issued by the Regulator for Registered Providers (RPs).

The Assured Tenancy provides for a high level of security of tenure and incorporates a range of rights granted to tenants including:

- The right to be consulted
- The right to take in lodgers
- The rights of succession
- The right to carry out improvements
- The right to acquire

The Assured Tenancy is intended to provide long term security for households who cannot easily afford the cost of private housing or who are vulnerable and need the benefits of long term social rented housing.

Standard Assured Tenancies will always be used to let the following types of

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accommodation:

- Sheltered Housing
- Other housing designated for use by Elderly People

Assured Tenancies will normally be let at target social rents, the exception being where an existing tenant wishes to transfer to a property which has been designated as an Affordable Rent property (see 3.2 below). In this case the tenancy will be an Assured Tenancy but the rent will be set according to the Affordable Rent formula.

3.2 Fixed Term Assured Tenancy

The Tenancy Standard no longer requires RPs to issue tenancies which provide for the maximum level of security of tenure appropriate to the type of accommodation being offered. Instead the new Standard permits RPs to offer 'flexible' forms of tenure including the use of fixed term tenancies in connection with Affordable Rents.

The Associations will use fixed term Assured Tenancies where properties are being let at 'Affordable Rents'. Affordable Rents are rents set at the equivalent of up to 80% of the local private market rent for a similar property. Affordable rents will apply to most newly built properties and to a proportion of relet properties, according to the funding agreement in place with the Homes and Communities Agency (HCA).

Given that the rents charged on these properties are higher than standard target rents; they can be seen as filling an intermediary role between short term lettings and Assured lets at target social rent levels.

3.2.1 Benefits of Fixed Term Tenancies

Fixed term tenancies will still provide a high level of security for new tenants but will offer the companies the opportunity to terminate the tenancy in certain defined circumstances (see Tenancy Reviews below). The fixed term nature of the tenancy will also make it possible for the Associations to recover possession of the property in circumstances where the households needs have changed.

3.2.2 The Terms of a Fixed Term Tenancy

Fixed term Assured Tenancies will normally be for a term of five years (excluding the Starter tenancy), renewable for a further period of five years following a review. The standard length of a fixed term tenancy will reviewed

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from time to time against experience and may be varied by the Board after consultation with the HCA. Terms of less than five years may only be offered in limited circumstances on the recommendation of a Neighbourhood Team Manager and the approval of a Neighbourhood Services Manager.

Circumstances may include:

- The tenancy may be for a shorter period where a household member other than a spouse is allowed to succeed to a five year fixed term tenancy on the death of the tenant. In this case a new tenancy will be issued for the remainder of the five year term or for two years whichever is the greater.
- Where there is an on-going action through the courts or other formal process in relation to the tenant's conduct of the tenancy or behaviour affecting neighbours and the process will only be concluded after the end of the current fixed term.
- The new tenancy is a result of a Mutual Exchange and the new tenancy is required to be equivalent to the residual term of a previous tenancy.

The companies will use a form of fixed term tenancy that in all other respects replicates the rights available in our standard Assured Tenancies. This will include granting a right of succession to other family members as well as the tenants spouse or partner.

3.2.3 Selecting properties to be let on a Fixed Term at an Affordable Rent

The companies will set an annual target for the number of tenancies which will be let on Affordable Rents. These will be made up from new property lets and relets. The targets will be determined by the scale of the development programme agreed from time to time with the Homes and Communities Agency (HCA).

Relets will be selected for letting on Affordable Rents with fixed term tenancies on the basis of a target proportion of general needs properties coming vacant, subject to the following exclusions:

- Designated geographical areas
- Larger properties where a family, fully occupying the home and receiving benefits or the proposed universal credit, are likely to have their overall benefits capped if rent is set at the Affordable Rent level
- Where there is no positive rent differential between the target social housing rent and the Affordable Rent calculation.
- Where the tenancy is to be offered to a vulnerable household and a

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- fixed term tenancy is not regarded as appropriate.
- Where an existing legal or planning agreement restricts the type of tenancy that can be offered

Where an existing tenant is transferring to a property being let by the same Association at an Affordable Rent, they will be entitled to keep their existing form of tenure.

3.3 Starter Tenancies

The Associations will apply Starter Tenancies to the offer of an Assured Tenancy or a fixed term Affordable Rent tenancy in accordance with the Group Starter Tenancy policy.

The Starter tenancy will be for a period of 12 months with an option to extend it to 18 months. Provided the Starter Tenancy has been conducted satisfactorily by the tenant or any breaches resolved appropriately, then the tenancy will convert to a periodic Assured or fixed term tenancy.

If there have been material breaches of the terms of the tenancy then the tenancy may be terminated in accordance with the Group Starter Tenancy policy.

3.4 Assured Shorthold Tenancy (other than Affordable Rent tenancy)

The group's companies may issue a basic form of Assured Shorthold Tenancy (AST), ie. without the 'starter' and tenancy review requirements, in the following circumstances:

- The type of accommodation provided is intended for short term occupation only, Examples are Move-on accommodation, temporary accommodation to assist councils with their duties towards homeless households etc.
- The prospective tenant is only entitled to temporary assistance with housing under the Associations' Selection and Allocation policy. Examples include; household members left in occupation on the death of a tenant who are not entitled to succeed to the tenancy and Successors left in occupation of specialist accommodation for which they do not meet the requirements.
- The accommodation is only available for a short-term period because it is due to be refurbished, demolished or disposed of.
- Where accommodation is let on a temporary basis outside of the

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normal selection and allocation procedure. For example, where new staff need assistance with moving to a new area.

- Where accommodation is let to staff and tied to their employment.
- Where the Association is not the freeholder and the lease is for less than 21 years.

3.5 License to occupy

Where accommodation has shared facilities or the occupant does not otherwise have exclusive use of the premises, a standard form of license to occupy will be issued.

3.6 Tenancy Agreements

The group will adopt standardised forms of each tenancy type, subject to any variations required by each Association.

The standard form of tenancy will be written in language which can be easily understood by tenants and set out clearly the rights and obligations of both landlord and tenant.

All tenants will be issued with a copy of the tenancy agreement at the start of the tenancy and will have the important terms of the tenancy explained to them at the sign up meeting.

4. Reviewing a Fixed Term Tenancy Agreement

4.1 Timescale

A Fixed Term Tenancy will be formally reviewed between twelve months and not later than six months before the date of termination and a decision taken as to whether to renew or terminate the tenancy.

The tenant will be informed when a review is about to be carried out.

The tenant will be given the review decision promptly and in writing when it has been taken. If the decision is not to renew the tenancy, the decision letter will set out clearly what information has been taken into account in reaching the conclusion and the reasons for the decision.

The decision will be taken by the Neighbourhood Services Manager on the recommendation of the reviewing officer.

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4.2 Tenant's Right to a Review of the Decision

The Tenant will be given the opportunity to appeal against the decision on one or more of the following grounds:

- The decision has been based on partial or wrong information
- The reason for termination of the tenancy does not conform to the policy as set out in this document
- The decision has been communicated less than six months from the end of the tenancy
- There are mitigating circumstances or other information which have not been taken into account in reaching the decision (see 4.3)
- The decision would result in hardship (see 4.4)
- Any other relevant reason for re-considering the decision

Appeals will be dealt with in accordance with our Appeals process. See **Appendix B**.

4.3 Non-Renewal of Fixed Term Tenancies

The tenancy will automatically be renewed for the standard term **unless** one or more of the following categories applies:

4.3.1 Conduct of the tenancy

There is evidence of a significant breach in the terms of the tenancy such that possession or other legal action has been commenced, namely:

- A Notice of Seeking Possession
- Court action
- Anti-social Behaviour Order or Anti-social Behaviour Contract

Where the breach has been remedied satisfactorily, or is in the process of being remedied, this will be taken into account.

4.3.2 Rent arrears

The rent account is in arrears at the time of the review or has been in arrears for at least six months out of the last twelve months. Exceptions can be made for tenants getting assistance with their rent from Housing Benefits, those with only minor rent arrears or those who have made an agreement to pay by instalments and have kept to it for a reasonable period.

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4.3.3 Level of occupation

The assessed bedroom need of the household in occupation at the time of the review is two or more bedrooms less than the number of rooms designated as bedrooms in the property.

- The assessment will only take into account household members living permanently at the property
- Children of opposite sex over the age of ten will not be expected to share a bedroom
- Same sex children with an age difference of 10 or more years will not be expected to share a bedroom
- Allowance will be made where there is medical evidence for a couple to have separate rooms
- The need for a spare room for a carer to stay the night will also be taken into account
- Bedrooms in use as spare rooms or offices will not be excluded from the assessment.

4.3.4 The Household no longer needs the type of property occupied

The property has features which are designed to meet specific housing needs and the members of the household no longer have those needs. An example would be a property adapted for use by a disabled person or a property originally let on the basis that it was close to support facilities (eg. hospital, school, relatives) needed by a member of the family.

4.3.5 Income and savings

The household has sufficient declared income and savings or disposable assets to be able to afford to buy private housing and there is a suitable opportunity to purchase in the town or area where they live.

4.3.6 Property is due for demolition or redevelopment

The housing association intends to either demolish, redevelop or dispose of the property within the next five years. In these circumstances the association may be prepared to offer either a short-term tenancy of the property or

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suitable alternative accommodation.

4.4 Disregarding information or circumstances

If there is evidence that a tenant has deliberately taken action to try and affect the outcome of the review, the associations reserve the right to disregard these circumstances in making their decision on the review. For example, where a tenant who had been under-occupying the premises decides to invite others to come and live with him shortly before or during the review period.

Similarly the associations may disregard information provided by the tenant as part of the review, if they believe it to be inaccurate or otherwise misleading.

In either of the above scenarios, the association will inform the tenant as part of the review decision what information or circumstances have been disregarded and the reason for doing this.

4.5 Exceptional circumstances

In some circumstances the strict application of this policy may result in financial hardship or an adverse effect on the welfare of the tenant and their household. In such circumstances an exemption to this policy can be made by the Neighbourhood Services Director on the recommendation of the Neighbourhood Services Manager.

Such circumstances can include:

- Welfare considerations which mean that a move of house would exacerbate mental illness or cause long-term stress, or create some other significant welfare need. Representations by Social Services, Health Services, and the Probation Service etc. will be taken into account. (NB. These considerations must be over and above what would be considered the normal level of stress and anxiety involved with moving house.)
- There is a need for the household to remain in the same location and suitable alternative accommodation is not available locally.
- The property has had to be adapted to meet the needs of the tenant and this work would have to be duplicated in a new property.

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- A promise has previously been given to a third party to renew the tenancy in order to attract a grant to carry out works to the property.

The grant of exemptions will be monitored through periodic reports.

4.6 Advice and Assistance

Where a decision is taken not to renew a fixed term Affordable Rent tenancy, advice and assistance will be offered to the tenant to help them move to suitable alternative accommodation.

The level of assistance given will depend upon the tenant's circumstances and could include:

- Advice on low cost home ownership options and information about Homebuy and other shared ownership opportunities in their locality.
- Additional priority within the Allocations and Selection Policy to help them transfer to a suitable property owned by the housing association or to transfer to another social landlord.
- For vulnerable tenants, help with making arrangements to move home, including service connections and arranging removals
- Information about renting privately in the locality.
- Referral to Housing Advice and or Support Services covering the locality where they want to live.

4.7 Other matters

Sustaining tenancies and preventing unnecessary eviction.

The associations will follow good practice in providing support to vulnerable tenants who are at risk of losing their tenancies by:

- Referring them to advice and support agencies
- Informing relatives and support agencies when action is being taken by issuing notices etc.
- Providing advice on welfare benefits that may be claimed

Anti-Fraud measures

The associations will follow good practice in identifying circumstances where a tenancy may have been assigned or sub-let illegally.

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Appendix A Standard Tenancy Agreements

Each housing association will have its own version of each of the following types of agreement. These agreements have been drawn up from a good practice template, so that they will be consistent across the Group. However, they have been adapted to take account of differences in terms of rent reviews and rent free weeks etc.

A.1 Assured Tenancy with Starter Period

A.2 Assured Tenancy without a Starter Period

A.3 Assured Tenancy with Fixed Term and Starter Period

A.4 Assured Tenancy with Fixed Term and without a Starter Period

A.5 Assured Shorthold Tenancy

A.6 License to Occupy

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Appendix B Appeals Procedure

A tenant may make an appeal if they are not satisfied with the decision not to renew their tenancy. There are 3 stages to the appeals process.

The appeals procedure should not be confused with the Complaints procedure.

B.1 Stage 1

The appeal should be made in writing by the tenant and should be dealt with by the Neighbourhood Team Manager.

An acknowledgement should be sent which will indicate the timescale in which they can expect a findings letter to be sent.

A findings letter will be sent giving the reasons for the decision and what action the tenant needs to take if they wish to escalate to the next stage.

B.2 Stage 2

The tenant has 10 days in which to make a further appeal. They should refer it to the Neighbourhood Services Manager (NSM) although the Neighbourhood Services Director may respond in the absence of the NSM. .

A full response will be sent, together with details of how they may proceed to Stage 3.

B.3 Stage 3

If the tenant is still dissatisfied with the outcome of their appeal, they can proceed to stage 3, which will be dealt with by the Appeals Panel.

A hearing will be arranged no longer than one month from the notification and the tenant may attend if they wish and are allowed to bring an advocate.

A report will be prepared to members of the Appeals Panel, giving details of the matters being disputed.

B.4 The Housing Ombudsman Service

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The outcome of the Appeal hearing should be recorded and sent to the tenant, together with details of the Independent Housing Ombudsman service, no later than 14 days following the appeal hearing.

This will conclude the Appeals process.

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