

Tenancy policy

Document control							
Valid from	Valid to	Version	Status	Author	Owner	Approval	Description of change
April 2015	April 2018	1	Final	Neighbourhood Services Manager	Assistant Director	Exec Team 05.08.15	New policy
April 2019	April 2022	2	Draft final	Head of N'hoods	Head of N'hoods	Co-Exec Team April 2019	Policy reviewed – advice from AC Solicitors
Nov 2020	Nov 2023	3	Review final	Head of N'hoods	Head of N'hoods		Reviewed and updated starter tenancies and lettings
Other relevant documents			FHG Anti-Social Behaviour Policy FHG Domestic Abuse Policy FHW/FHL/5Doorways Tenancy Agreement Terms and Conditions FHL/FHW Market Rent/Rent to Buy Tenancy Agreement Terms and Conditions FHG Home Choices Policy FHG Succession/Tenancy Assignment Policy FHG Rent to Buy Policy FHG Voluntary Right to Buy Policy Derbyshire Home Options Partnership Policy Daventry District Council Homechoice Policy Regulator of Social Housing - Tenancy Standard April 2012 Housing and Planning Act 2016 Housing Act 1985 Housing Act 1996 Localism Act 2011				
Comments			This policy review is subject to change arising from any legislative changes which may occur. This policy has been reviewed to include the cessation of starter tenancies and the impact on lettings during the Covid 19 pandemic.				

1. Policy statement

This policy covers the approach to tenancy management including the types of tenancies Futures Housing Group (the Group) will offer customers.

It will detail how we will support customers to sustain tenancies and prevent unnecessary evictions, failed tenancies and prevent potential tenancy fraud.

It is our aim to ensure maximum security of tenure where possible, considering the purpose of the accommodation and the needs of individual households. This policy meets the requirements of the Tenancy Standard set out within the Housing Regulator's revised regulatory framework for social housing published May 2015.

Legislation including the 1988 Housing Act, 1996 Housing Act, Homelessness Act 2002, Localism Act 2011 and Homelessness Reduction Act 2017 set out the rights and responsibilities of landlord and tenant that impact on the services we provide and these have been taken into account when producing this policy.

2. Types of tenancy

Registered providers can provide a range of different tenancy types and this will depend on their allocations process and the promises the landlord has made to stakeholders (such as on stock transfer). The Group uses the following tenancy types currently, however, these are subject to change:

- Assured Tenancy
- Assured Tenancy with preserved rights (for tenancies created prior to stock transfer)
- Starter Tenancy – no longer issued to new customers as of November 2020, existing Starter Tenancies will be reviewed and converted to Assured pre 12 month reviews.
- Assured shorthold – (private sector leasing)
- Fixed Term Tenancies - Mortgage Rescue Fixed Term Assured Shorthold – Voluntary Right to Buy (Pilot Scheme)
- Fixed Term Assured Shorthold – Intermediate Market Rent (Rent to Buy)
- Intermediate Market Rent (Acquisition Northampton)
- Equitable (under 18 years old)
- Licence or non-secure tenancy
- Affordable Rent – Assured Tenancies
- Shared Ownership lease

2.1 Assured Tenancies (AT)

This form of tenancy is sometimes known as a 'lifetime' tenancy and is the standard tenancy offer; it is the highest form of rental security which can be given to our tenants. The tenancy can only be terminated by possession under one of the grounds in Schedule 2 of the Housing Act 1988 or if the customer ceases to occupy the property as their only or principal home.

2.2 Starter Tenancies (ST)

Futures Housing Group no longer offers customers a Starter Tenancy. All customers since November 2020 are offered more security as part of an Assured Tenancy.

Existing Starter tenancies will be reviewed pre 12 month review stage and converted to Assured, where no legal action has commenced.

2.3 Assured Shorthold Tenancies (AST)

Assured Shorthold tenancies are offered to those customers taking on a private sector leasing property. These properties are leased from private landlords on a short term lease by the Group and sub-let on shorthold tenancies.

This tenancy will continue as a contractual periodic tenancy (weekly or monthly) until the tenancy ends:

- By the Group serving a Section 21 (s21) Notice including when the lease with the private landlord comes to an end
- The customer giving notice to leave or abandonment.

The 1996 Housing Act stated that an AST is no longer subject to a minimum term of 6 months. However, a Section 21 Notice cannot be served in the first 4 months of the original tenancy. On expiry of that notice if the customer has not vacated the property a court order must be obtained requiring them to leave; this does not need to specify any grounds for possession: proceedings can only be issued once 6 months of the tenancy agreement have expired.

If possession is required before that time, a Notice Seeking Possession on one of the grounds set out in Schedule 2 of the Housing Act 1988 could be served (if applicable) and standard possession proceedings issued.

2.4 Assured Tenancies with Preserved Rights

These tenancies are the same as the Assured Tenancies above however they were given to those customers who transferred as part of the LSVT from the local authority and include additional provisions replicating the rights those tenants had whilst secure tenants. This includes reference to the preserved 'Right to Buy' (which is a statutory right preserving the right to buy for such tenants).

2.5 Fixed Term Assured Shorthold – for Mortgage Rescue & Empty Homes

Mortgage Rescue - Under this scheme the property is purchased from homeowners who are facing repossession because they are unable to sustain on-going mortgage payments and allow them to remain in their homes with an assured shorthold tenancy for a fixed period of 3 years. These tenancies are let on intermediate rents.

The programme is only open to applicants to whom the local authority would have a

statutory duty under homelessness legislation. After the 3-year fixed term has expired the tenant will usually be allowed to remain in their home and will be issued with a new 3-year Fixed Term Tenancy. In rare circumstances, where it is decided not to allow the tenancy to continue eg to sell, demolish or carry out major redevelopment or refurbishment of the property, a notice of 6 months will be provided before expiry of the fixed term. The tenancy can only be ended during the fixed term for a breach of the conditions of tenancy. Where the tenancy is ended by the Group, housing advice will be provided.

Empty homes – properties that have been brought back into use using grant funding will be let on a minimum of 2-year fixed term tenancy, as per current the Housing Regulator’s guidelines at an affordable rent.

Properties leased from landlords are let to tenants on a fixed term assured shorthold tenancy and the length can vary between 6mths and 5 years.

2.6 Fixed Term Assured Shorthold – Voluntary Right to Buy (Pilot Scheme)

Subject to the protections in the Localism Act 2011 two-year fixed term assured shorthold tenancy agreements will be offered to Voluntary Right to Buy customers exercising their right to port their discount to another property because their current home is excluded from sale. If for any reason the proposed sale falls through customers will be offered an assured periodic tenancy at the end of their fixed term period.

These tenancies will be used for such customers when they move into their portability address, initially as tenants, in advance of the sales process being concluded on that home and them becoming owner occupiers.

2.7 Fixed Term Assured Shorthold – Intermediate Market Rent properties (Rent to Buy)

Five-year fixed term tenancies will be used for properties designated for the Rent to Buy programme let on, Intermediate Market Rent tenancies.

The Capital Funding Guide states:

Landlords are expected to let the properties on assured short-hold tenancies at an Intermediate Rent for a fixed term of less than two years.

If, after the initial five years of letting, the landlord wishes to sell the property the existing tenant should have the right of first refusal.

If at any point after the initial five years of letting the tenants submit a request to buy their home, it is expected that the landlord would agree to sell except in the most exceptional circumstances.

After the five years, the Group may continue offering the home as Rent to Buy, sell the home with the tenant having the right of first refusal, or convert the home to shared ownership, market rent or another form of affordable rent.

2.8 Equitable Tenancies (under 18s)

Persons under 18 years old cannot legally hold an estate in land, and this includes a tenancy. This means they do not have the capacity to hold an assured tenancy without a trustee. Therefore, anyone under the age of 18 years will only be given an assured tenancy where they have someone to act as a trustee and a Deed of Trust is completed. This is known as an equitable tenancy. The Group cannot act as the trustee. However, an equitable tenancy can be held by another person or a company/ corporation 'in trust' for the minor. If the trustee is an individual, they must be a responsible adult over the age of 18 years.

Only when the minor becomes 18 years of age will the tenancy convert to an Assured Tenancy, this is subject to a successful Equitable Tenancy. These types of tenancies are only used in exceptional circumstances.

2.9 Licence to Occupy or Non Secure Tenancy

The Group will work with the local authorities to ensure any offers of temporary accommodation due to homelessness is done so based on a Licence to Occupy for up to 56 days.

In certain areas managed by the Group, a Contractual (non-secure) Tenancy or Licence to Occupy will be issued to those living in short term supported housing for a period up to 2 years; providing short term move on accommodation.

A licence can be ended by serving a Notice to Quit ending the licence 28 days from the date of service, or sooner where appropriate and fair to do so.

Licences will usually be ended, by the homeless occupant when suitable permanent accommodation has been secured to discharge the rehousing duties or, for residents who are receiving support, when they no longer require the level of support provided and have alternative accommodation. These licences may also be ended by the Group serving a Notice to Quit for any breach of the conditions within the licence agreement or where following investigations no homeless duty is found eg intentionally homeless. On expiry of the notice an order for possession will be obtained from the court if the household has not moved out.

A Licence to Occupy will also be used for shared accommodation for leased properties which are being used to provide homes for vulnerable customers of Derbyshire County Council who may be at risk and require assistance at home. For example, customers with severe learning disability or physical disability.

2.10 Affordable Rent

Affordable Rent tenancies can only be used where a delivery agreement for the new supply of social housing is held by the Group under the (now) Homes England's Affordable Homes Programme.

The basis of the tenancies will be assured tenancies with relevant clauses regarding the affordable rent. Rents for these properties will be set at up to 80% of market rent for an equivalent property of that size and location. This ceiling of 80% is inclusive of

service charges. Valuations for initial rent setting will be undertaken in accordance with a Royal Institute Chartered Surveyors recognised method and will follow any guidance issued by the Housing Regulator on valuation for Affordable Rent tenancies. If a property with an affordable rent becomes void, then the rent will be re-calculated at the time it becomes void in accordance with the Regulator's guidance.

2.11 Shared ownership

Futures Housing Group is committed to promoting home ownership through the sale of properties on a shared ownership basis.

3. Lettings

Part VI of the Housing Act 1996, as amended by the Homelessness Act 2002, the Localism Act 2011 and the Homeless Reduction Act 2017 sets out the legal framework for the allocation of accommodation by local authorities.

The Group has lettings arrangements with a number of different local authorities across the East Midlands, more so with Amber Valley Borough Council and Daventry District Council as part of the transfer agreement.

In Amber Valley, the Group subsidiary 'Futures Homescape (FHL)' are members of the Home Options Partnership which covers High Peak, Derbyshire Dales, Amber Valley and Erewash. Amber Valley Borough Council (AVBC) maintains a Housing Register and only 'qualifying persons' will be registered on it.

Properties let through the Housing Register will be allocated under the Home Options Partnership Allocations Policy. This policy is delivered using a Choice Based Lettings model. The policy is used to assess housing needs under the current 'Fair and Flexible' guidance issued by the Ministry for Housing, Communities and Local Government.

New applicants (Home seekers) and transfer applicants are assessed under the same policy and placed in bands A to D depending on their circumstances. Band A offers the highest priority to applicants and band D the lowest.

There are however some exceptions in how this policy is operated;

- Age designations - Some properties may be designated for specific age groups or for those with health or disability issues only.
- Size designation - Under the Home Options Policy some properties will also be designated for households of certain size. The purpose of this designation is to prevent overcrowding of smaller properties. For example, smaller two-bedroom flats and houses may be designated for smaller households with one child or two very young children.
- Local lettings policies - The Home Options Policy allows for local lettings policies to be implemented for a fixed time period in specific areas to address local housing issues or to assist in the creation of sustainable communities. These local lettings policies will comply with current government guidance.
- Direct lettings - The Home Options Policy allows for properties to be let directly to applicants in certain extreme circumstances, without being

advertised through the Choice Based Lettings Process. This approach may be used for properties that have proved to be hard to let, or where properties are needed to accommodate homeless applicants in the event of an emergency (fire or flood for example). It may also be used where tenants are being 'decanted' from one property to another pending the completion of major improvement, renovation or demolition works.

- Management transfers - FHG also operates a procedure for offering its own tenants 'management transfers' in extreme cases where an urgent transfer is required usually to reduce the risk of harassment or severe anti-social behaviour.
- Properties let by other registered providers - The Home Options Policy and Choice based Lettings system is also used to allocate and let properties for other registered providers who may let properties in the area through nominations arrangements or agreements with the relevant local authority.

In Daventry, The Group subsidiary 'Futures Homeway (FHW)' is part of HomeChoice@Daventry, a sub-regional Choice Based Lettings scheme covering Daventry District and Northamptonshire Borough to which all Registered Providers within these areas have subscribed. The policy is used to assess housing needs under the current 'Fair and Flexible' guidance. New applicants (Homeseekers) and transfer applicants are assessed under the same policy and placed in bands A to D depending on their circumstances. Band A offers the highest priority to applicants and band D the lowest.

There are however some exceptions in how this policy is operated;

- Age designations - Some properties may be designated for specific age groups or for those with health or disability issues only.
- Local lettings policies - The HomeChoice Policy allows for Local Lettings policies to be implemented for a fixed time period in specific areas to address local housing issues or to assist in the creation of sustainable communities. These local policies will also comply with 'Fair and Flexible' and other appropriate guidance.
- Management transfers – This is where The Group operates a procedure for offering its own customers 'management transfers' in exceptional circumstances

As part of the Covid 19 Pandemic (and for future extraordinary circumstances) lettings will be completed using a direct let policy which sits within the lettings framework for each local authority.

4. Tenancy management

4.1 Succession

Succession occurs when a tenancy passes on to another upon the death of a tenant. The tenancy agreement specifies who is eligible to succeed so that customers of the Group are aware of their rights.

A minor, including those under 16 years of age, can succeed to an assured tenancy, however, the tenancy will be held in trust by an appointed trustee until they reach 18 years. A trustee will need to be appointed.

4.2 Assignment

A customer holding a tenancy with any part of the Group may be allowed to hand over their tenancy to another member of their family subject to the terms of their tenancy agreement and providing they qualify under the circumstances are set out in our Assignment Policy and Procedure.

4.3 Transfers

The Group encourages those customers wishing to down or upsize their home to apply for a transfer, ensuring the Group make best use of its housing stock; a transfer incentive maybe considered for those downsizing and freeing up larger homes.

Transfers based on medical grounds are considered where adaptations are not possible in the current home or when a customer needs to move to another area for ongoing support.

Transfers which are known to be 'like for like (same property type)' are discouraged and the Group provides an alternative option for customers wishing to move for no apparent reason. This is available via Homeswapper and is a mutual exchange register for customers to register their home free of charge.

In exceptional circumstances the Group may consider a 'like for like' transfer where the move is supported by any third party.

4.4 Mutual exchanges

All assured customers have the right to exchange their property and any application will be dealt with in line with the Group's mutual exchange procedure. An overview of these rights is also contained within the tenancy agreement.

4.5 Decants and home loss

If for whatever reason a customer is decanted to another property (eg due to major improvement works) the customer will retain the same tenancy and enter into a decant occupancy agreement for the temporary property. Whether the decant occupancy agreement is a licence or a tenancy depends upon whether the individual has exclusive occupation of the decant property. Where a customer has been decanted they will continue to pay the rent on their permanent home and return upon completion of the works.

Where a customer is asked to move on a permanent basis due to demolition or regeneration of an area, the customer will be subject to a home loss payment and disturbance allowance for 'losing their home'. They will not return home and rent will

be payable on their new home, they will retain the same level of tenancy rights they had prior to moving.

4.6 Tenancy sustainment

It is recognised that some households require advice and support to maintain their tenancies and prevent unnecessary evictions. The Group therefore offers the following:

- Tenancy support - a range of support services exist, some are via technology in the home, others involve the neighbourhood officer and other types of support are provided through partnerships with other external providers. The services consider the needs of households who are vulnerable due to age, disability or illness including those with learning disabilities, complex needs and mental health issues.
- Money advice services are available to all customers of the Group who require help with budgeting, setting up of utilities and accessing additional support
- Employment advice services exist to support customers with training and job searches locally, whether paid or voluntary.

4.7 Tenancy fraud

The Group must continue to ensure that properties are only occupied by those to whom the property was originally let. Visits will be made to check the identity and details of the people living in the property, the general condition of the property, its fixtures and fittings and its surroundings. The Group will mitigate the risk of tenancy fraud by carrying out random tenancy visits throughout the life of the tenancy.

The Prevention of Social Housing Fraud Act 2013 was created to ensure that social housing is available for the benefit of those who need it most. The Act is primarily concerned with strengthening the powers of social landlords to tackle tenants who sublet the whole of their dwellings for a profit.

Two new criminal offences are created by the Act:

- When a secure or assured tenant of a registered provider sublets the whole or part of the property and ceases to occupy the property as their only or principal home and does it knowing that it is a breach of their tenancy conditions.
- If a tenant dishonestly and in breach of an express or implied term of the tenancy, sublets or parts with possession of the whole or part of the property and ceases to occupy it as their only or principal home.

The first offence is deemed a lesser offence and only requires proof of knowledge that the subletting has taken place and is a breach of tenancy conditions. Importantly the more serious second offence is committed if the act is done dishonestly.

In particular the Act brings the assured tenancy regime into line with that of secure tenancies.

Since 15 October 2013, the Act ensures that assured tenants (who are not shared ownership lessees), will lose their security of tenure once and for all once they have sublet or no longer occupy the whole of their property, as is currently the case for secure tenants.

4.8 Rents and other charges

Rents will be set in accordance with the Rent Standard Guidance and the rent formula as instructed by the Government at that time and any legislation eg the rent decrease legislation.

This guidance is issued by the Regulator and covers social rent and affordable rent. It refers to a Guideline Limit for rent increases in social housing including Affordable Rent for any single year. The Guideline Limit is a ceiling not a target and the Group can increase rents by a lower figure where circumstances justify doing so.

This guidance sets out the government's policy on rents for social housing for April 2015 onwards. The Government's aims for its new rent policy are to:

- Ensure that rents for social housing remain affordable in the long-term.
- Protect social tenants from excessive increases in rents.
- Ensure rents take account of local conditions.
- Provide long-term certainty and stability to social tenants, social landlords and their funders
- Give landlords significant income to invest in the maintenance and improvement of existing homes, the provision of new affordable homes, and in providing good services to their tenants.
- Support landlords to charge a fairer rent to those social tenant households with high incomes.

During the first year of all the different type of tenancies the rent may be varied once in the April following the start of the tenancy by giving the tenant one calendar months' notice in writing. The notice will specify the rent proposed. Thereafter the rent will vary on the first Monday in April each year by giving the tenant no less than one calendar months' notice in writing. The notice will specify the rent proposed.

A range of services are provided as part of a tenancy for which fixed service charges are made. These charges are made to recover the costs of providing these services. Any service charges applicable are clearly defined in the Tenancy Agreement. The service charges will be increased along with the rent in April of each year, following Board approval.

4.9 Ending a tenancy

Customers can end their tenancy as per the terms and conditions of their tenancy agreement, usually by giving 4 weeks' notice in writing. The Group's Home Choices Team will confirm with the customer the expected tenancy end date.

The Group can end a tenancy as set out in the terms and conditions of the Tenancy Agreement/Licence, usually if there has been a breach of terms and conditions.

5. Complaints

A clearly defined complaints procedure is in place and this can be used in conjunction with all aspects of this policy should a customer be unhappy with the way in which services have been delivered.

6. Review

The Tenancy Policy must have regard for the Local Authority Tenancy Strategies in the areas in which it operates. It also must consider the best use of its stock and the communities it serves, which may in the future include the use of flexible (fixed term) tenancies. As such the policy will be reviewed at least every three years or sooner if it is appropriate to do so (eg due to changes in legislation, regulation, or any changes to the Local Authority Tenancy Strategies).