



North Tyneside Council

# Tenancy Policy

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# 1. Introduction

The Regulatory Framework for Social Housing in England (from April 2012) requires social housing providers to publish clear and accessible policies which outline their approach to tenancy management. This includes setting out the types of tenancies they will grant and interventions to sustain tenancies, prevent unnecessary evictions and tackle tenancy fraud.

The Framework expects that providers shall offer tenancies that are compatible with the purpose of their accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock. North Tyneside Council's Tenancy Policy has been developed to reflect these principles. It sets out:

- The types of tenancies the Authority grants.
- The Authority's approach to discretionary succession rights and assignments.
- How the Authority works to sustain tenancies and prevent unnecessary evictions.
- How the Authority tackles tenancy fraud.
- The circumstances under which tenancies may be ended.

It has been developed within the context of the North Tyneside Tenancy Strategy, which aims to:

- Make best use of the housing stock to meet local housing need.
- Maintain and create successful, sustainable communities.
- Prevent homelessness.

## 2. Tenancy Management

Effective tenancy management is based on the following key principles:

- Offering the most appropriate tenancy to meet an individual's housing circumstances and needs.
- Complying with the Authority's duties to tenants as set out in legislation and the tenancy agreement.
- Meeting the housing regulator's standards and requirements.
- Taking a preventative approach to tenancy failure by giving appropriate help and guidance to people who are finding it difficult to manage their tenancy, only taking enforcement action where absolutely necessary.

### 2.1 The type of tenancies the Authority grant and the circumstances under which they are granted

The Authority want to create sustainable communities and the Authority believe that one way of doing this is to grant lifetime secure tenancies, on successful completion of an introductory tenancy. Secure tenancies provide stability for all households but especially for those who are vulnerable, such as the elderly and those with disability or an illness. The types of tenancy the Authority offer depend on an applicant's housing circumstances as set out below.

#### Introductory Tenancy

This is a probationary tenancy that usually lasts 12 months from tenancy sign-up. It is granted to new tenants of social housing. The tenancy provides most of the same rights as a secure council tenancy. As long as the tenant does not break the terms of the tenancy agreement they will automatically become a secure tenant at the end of the introductory period.

### **Secure (periodic) Tenancy**

This type of tenancy runs indefinitely from one week to the next and can only be brought to an end by notice given by the tenant or the landlord obtaining a court order. Secure tenancies grant the tenant security of tenure and provide the tenant with a number of statutory rights including the Right to Buy, Right to Repair (for certain repairs), Right to Take in Lodgers (with prior consent and providing they continue to use the property as their only or principal home) and the Right to Succession and Assignment.

The Authority grant secure tenancies to:

- Tenants whose introductory tenancies have been successfully completed.
- Tenants who had a secure tenancy before 1<sup>st</sup> April 2012 and who are transferring to another social rented home or who are undertaking a mutual exchange.

Note - tenants with an existing social tenancy on 1 April 2012 must be given a tenancy with no less security when they choose to move to another social home. However, this does not apply if the household is exchanging to an affordable rented home or a home with a fixed-term tenancy of less than 2 years.

- Those who are the beneficiary of a succession or assignment of a secure tenancy.

### **Demoted Tenancies**

These were introduced by the Anti-Social Behaviour Act 2003. A demoted tenancy may be granted by the court in cases where the tenant has breached their tenancy agreement by engaging in anti-social behaviour. It will normally last for 12 months, before reverting back to a secure tenancy. During the demoted period, the Authority may seek possession of the property as if it were an introductory tenancy, provided the statutory procedure is followed. The Authority uses demoted tenancies in appropriate circumstances to tackle anti-social behaviour.

### **Flexible (fixed term) Tenancies**

This type of tenancy runs for a fixed length of time after which the landlord has the option to either renew or terminate the tenancy. It is a new type of tenancy created through the Localism Act 2011. The Authority does not currently offer fixed-term tenancies. However, this will be kept under review and any change to this policy will be subject to consultation.

### **Equitable Tenancy (Deed of Trust)**

A person under the age of 18 cannot hold a legal tenancy. In this situation the Authority may grant an equitable tenancy, which is an agreement to grant a tenancy when they reach 18. It is necessary to have a suitable guarantor acting as trustee of the tenancy who is responsible for giving guidance to the tenant on how to successfully manage the tenancy but who is not responsible for paying the rent. The Authority may use Equitable Tenancies in relevant circumstances.

### **Family Intervention Tenancies**

Family intervention tenancies can be used for families who require intensive family support and who would not normally be offered a tenancy. For example families who have chaotic lifestyles, including anti-social behaviour, rent arrears and children not attending school. They are entered into voluntarily and last between six months and a year. An existing tenancy cannot be converted to a family intervention tenancy; as part of the process the family is usually offered a property away from their original neighbourhood. The Authority may use Family Intervention Tenancies in relevant circumstances.

## 2.2 Tenancy Succession

The aims of our policy on succession and assignment are to:

- Comply with the statutory rights of tenants.
- Provide clear information for tenants about their legal rights and responsibilities.
- Promote a sensitive approach by staff in dealing with requests for succession or assignment.
- Ensure that the Authority make the best use of the available housing stock.

### Right of Succession

The Right of Succession is the right to pass on the tenancy to a spouse, partner or family member when the tenant dies. A succession is the transfer of tenancy not the property. By law only one succession is permitted.

The Housing Act 1985, Section 87, set out the statutory right of spouses and family to succeed to a tenancy following the death of a tenant. However, the Localism Act 2011 limited the automatic statutory right of succession on all new secure tenancies. New secure tenancies only have a statutory right of succession to a spouse/partner; there is no longer a right of succession to other family members. Existing tenants (i.e. those holding an existing secure tenancy on 1<sup>st</sup> April 2012) rights to succession are not affected.

Local authorities have the power to grant additional succession rights if they choose to do so in their tenancy terms. The Authority will not grant additional succession rights and the standard tenancy agreement will be revised to reflect this. This new tenancy agreement will take effect from 1<sup>st</sup> April 2013. Where other family members wish to remain in the property the Authority will use powers already delegated to the Head of North Tyneside Homes within the allocations policy. Each case will be assessed taking account of the vulnerability of the existing family member and the need to make the best use of the existing housing stock.

### Succession to Qualifying Persons

The Authority will automatically grant succession to surviving spouses or to civil partners (registered under the Civil Partnership Act 2004), provided they occupied the deceased tenant's property as their only or principal home at the time of the tenant's death.

Where the successor tenant occupies a home that is bigger than is reasonably required the Authority will discuss the housing options available as part of its work to make best use of the housing stock. Circumstances where this approach may be considered include:

- If the tenant's home has been specifically adapted and the successor does not require that adaptation.
- Where the property is a house and they will only use one of the bedrooms.
- If the home is accommodation specifically provided for older people, such as bungalows or sheltered housing and the successor does not qualify because of age or vulnerability.

In these circumstances an offer of a more suitable home may be made.

Where there is no qualifying successor, the Authority may grant a new tenancy where:

- The properties are not designated family accommodation and the proposed tenant is vulnerable and would be eligible for assistance as a homeless person.

- The tenant died leaving dependant children and granting a new tenancy to a carer of the children is the most appropriate course of action.
- A remaining occupant gave up their Council or Housing Association property of a similar size to care for the tenant; this care was medically required and lasted for more than 12 months.

Where there is no qualifying occupant to succeed to a tenancy, the Authority will take action to recover possession of the property where necessary. A case-by-case approach will be taken where any remaining occupant may be vulnerable; the advice of health and social care professionals will be sought where appropriate.

## **2.3 Right of Assignment**

The Right of Assignment is the right to pass the tenancy to someone else in certain circumstances (e.g. by court order in a divorce, to a spouse or another family member). A court may ask the tenant to transfer the tenancy to someone else as a result of a relationship breakdown (Property Adjustment Order s.23A, 24 Matrimonial Causes Act 1973 or s.17 (1) Matrimonial and Family Proceedings Act 1984).

Assignment can only occur:

- By order of a court through an assignment between married partners and civil partners as a result of a relationship breakdown, for example in divorce proceedings or dissolution of a civil partnership.
- Through a legal right to assign (pass) the tenancy to a husband / wife / civil partner or a family member who has lived with them throughout the past twelve months before the application is made.
- By mutual exchange, provided the exchanging tenants have obtained the Authority's (and any other landlord's) permission.

All applications for assignment will be dealt with promptly, fairly and efficiently. Where the Court decrees an assignment, the Authority will act in accordance with this.

## **2.4 Ending of tenancies**

Listed below are the circumstances where the Authority will end tenancies:

### **Tenancies with no security**

The Authority may wish to bring a tenancy to an end if a tenant has lost their security of tenure, for example because they no longer occupy the property as their only or principal home. A notice to quit will be served. The Authority may then take possession proceedings through the courts if necessary.

### **Tenancy termination**

If a joint tenancy is surrendered, the surrender should be signed by all the joint tenants where possible. The Authority have discretion to award a sole tenancy to any remaining occupant who was party to a previous joint tenancy that has been brought to an end.

### **Court order**

Secure, introductory, demoted and family intervention tenancies may all be ended by a court order. This will always require the Authority to serve a notice warning the tenant that it is taking possession proceedings. In the case of an introductory tenant a notice to terminate would be served. The type of tenancy will determine the type of notice and the court's powers to award possession.

## **Property abandonment**

If a tenant appears to have vacated a property and has made no positive communication with the Authority to indicate whether they wish to continue with their tenancy or not, the Authority may serve a 'notice to quit' that ends the contractual tenancy after 28 days. When the notice expires the Authority may repossess the property without getting a court order if there is no evidence of occupation.

## **3. How the Authority work to sustain tenancies**

The Authority provides a comprehensive set of [Service Standards](#), which were developed in partnership with tenants. They cover the main service delivery areas and detail the minimum standard that tenants can expect to receive. The standards cover a range of functions, such as tenancy and estate management, housing advice, repairs and re-housing. They set out expectations for both tenants and the Authority, and assist in the delivery of good tenancy management.

The standards also set out how the Authority work to sustain tenancies. For example, our service standard on [Estate and Tenancy Management](#) explains that all new tenants are visited within six weeks of their tenancy starting. During the tenancy, the Authority will arrange an appointment to visit tenants from time to time to make sure they have the latest information about their tenancy and tenancy conditions. Visits enable the Authority to keep records up-to-date so that services take account of any special needs tenants may have. They also help identify whether extra support is needed to sustain the tenancy, for example debt advice.

## **4. How the Authority work to prevent unnecessary evictions**

### **Rent arrears**

Where tenants are struggling to pay their rent, the Authority will take all reasonable steps to help the tenant prevent rent arrears. Our service standard on [Paying Your Rent and Managing Your Money](#) sets out what the Authority do to support tenants if they face difficulty paying their rent. The emphasis is on early intervention, support and advice to prevent rent arrears building up. Our approach includes:

- Giving advice on benefits and checking that tenants receive their full housing benefit entitlement. This may include fast-tracking benefit claims for vulnerable new tenants.
- Putting tenants in touch with a local credit union that encourages saving and can offer low-cost loans.
- Providing advice on money management, including information on setting up a bank account.
- Agreeing a sensible, affordable arrangement to pay off arrears.
- Offering to refer tenants to an independent debt advice agency.

### **Anti-social behaviour**

Under the Human Rights Act tenants are entitled to enjoy their home without unnecessary interference. The Authority's approach to tackling anti-social behaviour is set out in our policies and procedures. The purpose of this procedure is to ensure that the Authority:

- Effectively manages incidents of anti-social behaviour and harassment (including hate crime) when they occur.
- Takes appropriate action to prevent and reduce incidents of anti-social behaviour and harassment (including hate crime).

- Provides an effective response to protect and support victims.
- Has arrangements in place for providing support to perpetrators to discourage their offending behaviour.

## **5. How the Authority tackle tenancy fraud**

Housing tenancy fraud is the use of social housing by someone not entitled to occupy that home, it includes:

- The unauthorised subletting of a property for profit to people not allowed to live there under the conditions of the tenancy.
- Providing false information or withholding information in a housing application to gain a tenancy.
- Wrongful tenancy assignment and succession where the property is no longer occupied by the original tenant.

Social housing fraud is the largest category of fraud loss across local government. The Authority is proactive in tackling tenancy fraud. A full-time officer is dedicated to tackling this, including investigating suspected abandoned properties and unauthorised subletting of properties.

## **6. Policy monitoring and review**

To ensure that the Authority continue to deliver services that meet the needs of our tenants and meet our statutory obligations, the Authority will review this policy biannually or when a change of legislation requires it.