



# Tenancy policy

## 1.0 Purpose and scope

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This policy sets out the type of tenancies we grant and in which circumstances. We are committed to grant tenancies which are suitable with the property type, the needs of the individual household, development of the community and the efficient use of our housing stock. This policy outlines the grounds of possession we use.

This policy applies to all residents renting homes we own and manage. It does not apply to leaseholders or shared owners.

We expect managing agents who manage homes that we own, to use our occupancy agreements and follow our practices as outlined in this policy.

## 2.0 Principles

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The principles which underpin our approach are:

- Making the best use of our housing assets
- Helping local authorities to meet their strategic housing goals
- Granting tenancies in a simple, fair, and transparent way
- Providing clear information for residents about the tenancies we issue
- The grounds for possession which we may rely on
- Sustaining tenancies and preventing unnecessary evictions
- Our approach to using the mandatory grounds
- Preventing homelessness and protect families and vulnerable households
- To ensure we meet our statutory and regulatory requirements.
- Tackling tenancy fraud

## 3.0 Types of tenancy

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We currently issue the following tenancy types for new build lettings and relets.

**Assured tenancies (periodic)** These are also known as an assured non-shorthold tenancy. They are usually issued as weekly tenancies but can also be monthly. These tenancies do not have an end date. For that reason, they are called 'periodic' and are sometimes referred to as 'lifetime' tenancies because, providing the tenant does not breach the tenancy conditions, they will usually be able to stay in their home for the rest of their life.

### **Assured shorthold tenancies**

Like assured tenancies, these are usually issued as weekly tenancies, but can also be monthly. They have fewer statutory rights than assured tenancies and can be ended more easily. Assured shorthold tenancies can be periodic, where they have no end date, or fixed term that clearly state the intended length of the tenancy. Where we have a fixed-term tenancy when we renew the tenancy, tenants will be granted a lifetime tenancy, as long as there have been no breaches in the terms of the tenancy agreement.

### **Secure tenancies**

Secure tenancies are regulated by the Housing Act 1985 and can be referred to as 'lifetime' tenancies. After Housing Act 1988 (private sector tenancies and housing association tenancies on or after 15 January 1989), housing association landlords were removed from the landlord condition<sup>1</sup>. Therefore, we do not issue secure tenancies for new tenants; however, anyone who has a tenancy that was granted before 1 April 1989 is likely to be a secure tenant. The tenancy will not usually be terminated unless there are serious tenancy breaches.

### **Licences**

A licence<sup>2</sup> is issued when residents do not have exclusive possession of any part of the premises and only in circumstances where a tenancy cannot be offered. Licences are usually short term (between six and 12 months) and can usually be terminated relatively easily and on short notice.

### **Agreement for tenancy or equitable tenancy**

A person under 18 years old cannot hold a legal interest in land, and therefore cannot hold a tenancy, so an 'agreement for tenancy' or 'equitable tenancy' is provided until they turn 18 years old. An 'agreement for tenancy' assumes that minors have the capacity to contract for 'necessaries'. Accommodation is generally assumed to be a 'necessary', therefore a contract relating to the provision of accommodation to a young person under the age of 18, but with sufficient capacity, is binding on them (valid and fully enforceable against them). For example, they are liable to pay rent and, if rent arrears accrue, we can recover the unpaid rent through the courts.<sup>3</sup>

[Shelter Legal England - Tenancies for children and young people - Shelter England](#)

## **4.0 Tenancies by tenure**

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The following section outlines the tenancies that we offer.

### **4.1 General needs**

#### **Assured**

A periodic assured tenancy is granted to tenants in general needs unless there is a restriction on tenancy type imposed by existing nomination agreements, planning consents, title deed or loan covenant.

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<sup>1</sup> [Shelter Legal England - Secure tenancy or licence definition - Shelter England](#)

<sup>2</sup> [Shelter Legal England - What is a licence? - Shelter England](#)

Tenancies are monitored to ensure compliance with the tenancy agreement terms and residents are supported throughout the initial stages of their tenancy with an annual visit.

### **Licence**

A licence is issued when we require a tenant to move to a temporary home while we carry out repair or improvement works to the property where they hold their tenancy. Please see our decants policy.

### **Secure**

A secure tenancy is only granted to tenants in general needs if they were already a secure tenant with us immediately before they enter into the new contract. This is in accordance with section 35(4) (d) of the Housing Act 1988 and we do not have the discretion to grant another form of tenancy.

## **4.2 Supported housing**

All tenancy agreements in supported housing are issued to reflect any support provisions that form part of the accommodation.

### **Assured**

A periodic assured tenancy is granted to tenants in supported housing that is intended to be permanent housing, unless there is a restriction on tenancy type imposed by existing nomination agreements, planning consents, title deed, loan covenant or service provision contracts.

### **Assured shorthold**

An assured shorthold tenancy is granted in circumstances where a tenancy exists, but the accommodation offer is intended only for a relatively short length of time. These are usually for two years but may longer period in some schemes. This includes self-contained accommodation.

### **Licence**

A licence is issued in care and support when:

- We require residents to move between rooms in the premises to enable us to manage the premises efficiently, for example in a hostel; or
- We require unrestricted access to the accommodation so that we can provide support services or check on residents' wellbeing and there is a genuine management requirement for this; or
- We require a resident to move to another home temporarily while we carry out repair or improvement works.

### **Secure**

A secure tenancy is only granted to tenants in supported housing if they were already a secure tenant with us immediately before they entered into a new contract. This is in accordance with section 35(4) (d) of the Housing Act 1988 and we do not have the discretion to grant another form of tenancy.

## **4.3 Temporary housing**

### **Assured shorthold**

A periodic assured shorthold tenancy is granted to most of our temporary housing tenants, excluding those in hostel accommodation or where the local authority has specifically asked us to use a licence.

## **Licence**

A licence is issued in temporary housing where we require residents to move between rooms in the premises to enable us to manage the premises efficiently, for example in a hostel.

## **Local authority non-secure agreement**

Within temporary housing, we have a small number of schemes which require us to use an agreement prescribed by the local authority. These are generally schemes where we are acting as managing agents and the local authority retain responsibility for income collection.

### **4.4 Intermediate market rent (including London Living Rent)**

#### **Assured shorthold**

A one or three-year fixed-term assured shorthold tenancy is granted in new IMR lettings and all relets in properties owned by us. Where we act as managing agents for another landlord, we sometimes offer two-year assured shorthold tenancies, depending on the management agreement.

For properties developed under the London Living Rent scheme, we grant three-year assured shorthold tenancies.

### **4.5 Market rent (Folio)**

#### **Assured shorthold**

One to three-year fixed-term assured shorthold tenancies are granted in market rent property lettings and all relets and renewals in properties we own.

### **4.6 SimpliCity**

#### **Assured shorthold**

One or three-year fixed-term assured shorthold tenancies are granted for new SimpliCity property lettings and relets. We determine the length of the tenancy.

### **4.7 Keyworkers**

#### **Assured shorthold**

Periodic assured shorthold tenancies with a minimum six-month term are granted in all our keyworker schemes.

### **4.8 Student accommodation**

#### **Licences**

We issue licences of 41, 44 or 51 weeks licences to University of West London students and other students from various universities living in our student accommodation.

## **5.0 Surrender and regrant**

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Surrender and regrant, usually applicable to [mutual exchange](#), means that tenants can surrender their tenancies and have the right to have a tenancy agreement with the same tenure granted. Secure tenants are advised to seek legal advice. Some tenants have the right to 'swap' homes with another tenant of a registered provider. In those circumstances, each tenant will surrender their original tenancy and be granted a new

tenancy with the same tenure. This right has been extended to all residents who are eligible for a mutual exchange. Where an incoming tenant holds a fixed-term tenancy, we issue an assured tenancy.

## 6.0 Assignment

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An assignment is where a tenant can legally pass their tenancy to someone else during their lifetime via a deed of assignment. The right to assign a tenancy is limited by the terms of the tenancy agreement and by legislation.

We will consider the following types of assignment:

- By mutual exchange: tenants who have the right to mutually exchange can 'swap' their home with another tenant of a registered provider of social housing, such as another housing association or local authority. A mutual exchange cannot be carried out with a tenant of a private landlord. For further information, see our [Mutual Exchange Policy](#).
- By a court order: we will always agree to an assignment if ordered to do so by a court order.
- To a potential successor

### 6.1 Secure tenants

Secure tenants can assign their tenancies to an eligible successor without our permission. The tenant must inform us that they would like to do so.

### 6.2 Assured tenants

Some assured tenants have a contractual right to assign their tenancy with our consent. We refuse requests for an assignment where the tenant has breached a term in their tenancy agreement. In cases where there is domestic abuse, we refer to our [domestic abuse policy](#) which outlines the conditions under which we would refuse an assignment.

## 7.0 Joint tenancies and sole tenancies

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### 7.1 Sole tenant

A sole tenancy is where only one person holds the tenancy. This may be where only one person signed the tenancy originally, or where it was initially a joint tenancy but became a sole tenancy through assignment.

### 7.2 Sole to joint

We may allow for person living with the tenant as a partner for the last 12 months to be added to a tenancy. Requests from victims/survivors of domestic abuse to add a perpetrator to the tenancy are made in line with our Domestic Abuse policy.

A succession right is not exercised when assigning a sole tenancy to a joint tenancy.

### 7.3 Joint tenants

We grant a joint tenancy to new tenants where the nomination agreement has both names on the document. The two applicants must be living together.

A joint tenancy can also be granted where there is only one named applicant, but two people forming a cohabiting couple or civil partnership on the nomination form we receive from the local authority, all other relevant eligibility criteria are met, and we have 12 months' proof of residence for all parties. Both tenants must be present at sign-up for us to grant a joint tenancy.

We will not separate or create a joint tenancy at the request of tenant(s) if there are arrears on the account. The arrears must be cleared before permission can be given. The exceptions are where the tenancy has been separated by a court order, or there is domestic abuse, in which case refer to our [domestic abuse policy](#). We support and signpost residents who have experienced financial abuse.

#### **7.4 Joint to sole**

We cannot transfer a tenancy from joint to sole unless both tenants agree and there is a formal deed of assignment. Where only one tenant requests a sole tenancy, such as in a relationship breakdown, we are unable to fulfil this without a court order. Residents should seek legal advice in the first instance.

#### **7.5 Ending a joint tenancy**

Either joint tenant can end the tenancy for both tenants by serving a valid notice to quit (NTQ) to us. The preference is for both tenants to sign the NTQ and we will aim to contact the other joint tenant to see why the notice has been served. The length of the notice period is outlined by the tenancy agreement.

Where there is a fixed-term tenancy, we will check the tenancy agreement. If there is a specific termination provision, then we will accept an NTQ signed by both tenants. If there is no provision, we will enter into a deed of surrender, which must be signed by both tenants.

We will usually inform the other tenant if a notice to quit is served, unless this would put the tenant at risk, for example in cases of domestic abuse.

## **8.0 Housing minors**

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We only house minors aged under 18 in general needs and supported housing.

Where possible, we will seek a trustee and ask them to sign a 'form of trustee'. The trustee may be an individual or an agency such as a local authority or social services department. Neither Notting Hill Genesis as an entity nor members of our staff can act as the trustee.

#### **8.1 Agreement for tenancy**

We issue an agreement for tenancy as a contractual relationship, which the minor holds until they are 18 years of age. This agreement reflects the underlying intention of the tenancy agreement, while acknowledging the legal status of the minor. The minor will sign and date both the agreement for tenancy and tenancy agreement

at the same time and we will consider this to be the tenancy commencement date.

#### **8.2 Equitable tenancies**

If the minor is within six months of their 18<sup>th</sup> birthday, and there is no available trustee, we may grant an equitable tenancy.

### 8.3 Licences

If appropriate where we are unable to offer an agreement for tenancy or equitable tenancy, we may issue a licence agreement.

## 9.0 Ending a tenancy

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We can end a tenancy agreement only in specific ways, and we have clear procedures for terminating a tenancy.

### 9.1 Grounds for possession

We see eviction as the last resort and only seek possession where it is proportionate to the case, and when we have exhausted non-enforcement measures as set out in the relevant policies and procedures.

We rely on the grounds for possession available through legislation:

- For secure tenancies – Housing Act 1985 (schedule 2)<sup>4</sup>
- For both assured and assured shorthold tenancies – Housing Act 1988<sup>1</sup>

Some of our tenancy agreements state which ground we will use for possession and thereby prohibit us seeking possession on some grounds. A list of grounds for possession for secure, assured, and assured shorthold tenants is attached at appendix 1.

### 9.2 Accelerated possession

Where we decide to end an assured shorthold tenancy at the end of the tenancy, we use the accelerated possession process and serve a notice requiring possession complying with section 21 of the Housing Act 1988.

If there are rent arrears on the account, we will always consider recovering these by serving a separate notice requiring possession complying with section 8 of the Housing Act 1988.

Where we manage properties that we do not own, for instance in temporary housing, we may use the accelerated possession process to seek possession at the request of the property owner.

### 9.3 Ending a fixed-term tenancy in general needs

Where we propose that a fixed-term tenancy is not renewed, we will provide advice and assistance to the tenant on finding alternative accommodation. This may include alternative options such as market rent, shared ownership, or available homelessness services.

Where there are suspicions of tenancy fraud, we will act in accordance with our [tenancy fraud policy and unauthorised occupants policy](#).

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<sup>4</sup> as amended by the Housing Act 1996 and the Anti-social Behaviour, Crime and Policing Act 2014).

Where it is believed that a resident has abandoned the property we will act in accordance with our [Absent residents and abandonment policy](#).

## 10.0 Starting and ending tenancies for people who lack capacity

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The [Mental Capacity Act 2005](#) outlines how we work with people who lack capacity. We assume in the first instance that a person has capacity unless the evidence suggests otherwise.

Where we identify that a person may not have capacity to understand actions relating to the signing or ending of a tenancy, we make a referral to social services. If this identifies a lack of capacity, we set up a best interest meeting.

Any agreed action from this meeting will be authorised by the Court of Protection (unless the resident already has in place a legal, authorised deputy) before we take any action to start, or end, the tenancy. We keep records of best interest meetings and proof of Court of Protection authorisations and deputy appointments to evidence and support our decision making.

The tenancy cannot be signed by anyone on behalf of the resident without this legal authority. Where deputies or those with legal power of attorney are identified, we will confirm their authority to sign online with the Office of Public Guardian to ensure it remains valid.

Where we identify that a tenant lacks physical capacity, they can authorise someone to sign on their behalf. Please see our Service Adjustment Policy.

## 11.0 Tenancy sustainment

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We are committed to supporting our residents to sustain their tenancies during times of difficulty, specifically financial hardship. We are committed to preventing homelessness and protecting families and vulnerable households. Residents can be signposted to local organisations that can provide advice and guidance on how to navigate these circumstances. Please see the [cost of living support](#) on our website.

## 12.0 Complaints and appeals

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Tenants or prospective tenants in general needs and supported housing who are unhappy with any decision made under this policy shall have a right of appeal.

The lettings panel will consider appeals in relation to:

- The type of tenancy offered
- The terms of tenancy offered
- The length of tenancy offered.

The permission to evict panel considers appeals in relation to the decision not to offer a new tenancy at the end of a term.

All other complaints are dealt with under our complaints policy.

## 13.0 Our approach

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In writing this policy we have carried out assessments to ensure that we are considering equality, diversity and inclusion and privacy and data protection. No adverse impacts were identified.

## 14.0 Reference

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The most important Acts that currently govern registered provider tenancies are:

- Rent Act 1977 - refers to private sector tenancies before 15 January 1989
- Housing Act 1985 - refers to housing association tenancies before 15 January 1989 and public sector tenancies
- Housing Act 1988 (private sector tenancies and housing association tenancies on or after 15 January 1989)
- Protection from Eviction Act 1977 (giving protection against eviction without court proceedings to most tenants and licensees)
- Housing Act 1996 (introductory tenancies)
- Anti-social Behaviour Act 2003 (possession grounds - amended Housing Acts 1985, 1988, 1996)
- Localism Act 2011 (flexible tenures).
- Anti-Social Behaviour, Crime and Policing Act 2014 (further amended Housing Acts 1985, 1988, added absolute grounds for possession for ASB)
- Welfare Reform and Work Act 2016.

The key regulatory standards that govern registered providers are:

- Tenancy standard

## Appendix 1 – Grounds for Possession

### 1) Mandatory Grounds for Possession

The court must grant us possession on these grounds.

#### Secure tenancies

Grounds 9, 10 and 11 are mandatory; however, the court must be satisfied that suitable alternative accommodation will be available for the tenant.

Ground 9	Overcrowding
Ground 10	Demolition
Ground 10A	Redevelopment
Ground 11	Charity
Ground 84A	Anti-social behaviour (Absolute ground)

#### Assured tenancies and assured shorthold tenancies

Where the tenancy is fixed term only grounds 2, 7, 7A and 8 are available to use during the period of the fixed term.

Ground 1 (owner occupiers)	Landlord previously occupied the property and wants to use the property as his or her only and principal home.
Ground 2 (mortgagees)	Dwelling is required for sale in accordance with a mortgage granted before the tenancy began.
Ground 3 (holiday let)	Tenancy is an out of season fixed term letting which was used as a holiday let.
Ground 4 (educational institution)	Tenancy is a fixed term letting which was used for students.
Ground 5 (ministers of religion)	Dwelling is required for occupation by a minister of religion.
Ground 6 (demolition or reconstruction)	Landlord intends to demolish or reconstruct which cannot be done with the tenant in residence.
Ground 7 (death of a tenant)	Tenancy has passed to the tenant through the will or intestacy of his/her predecessor and the landlord has begun possession no later than 12 months after the death.
Ground 7A (serious offences)	<p>Tenant /person residing or visiting:</p> <ul style="list-style-type: none"> <li>• has been convicted of a serious offence that relates to the property or the landlord</li> <li>• has breached an injunction under the ASB, Crime and Policing Act 2014 that relates to the property or the landlord</li> <li>• has breached a criminal behaviour order that relates to the property or the landlord</li> <li>• has been convicted of an offence relating to noise nuisance under the Environmental Protection Act 1990</li> </ul> <p>Also, if the property has been subject to a closure order under the ASB, Policing and Crime Act 2014</p>
Ground 8 (rent arrears)	<p>Tenant owed rent arrears on the date the Notice Seeking Possession was served and at the date of the hearing. The arrears amount to:</p> <ol style="list-style-type: none"> <li>1. 8 weeks (rent payable weekly/fortnightly)</li> <li>2. 2 months (rent payable monthly)</li> <li>3. 1 quarter rent which is 3 months in arrears (rent payable quarterly)</li> <li>4. 3 months' rent which is more than 3 months in arrears (rent payable yearly)</li> </ol>

## 2) Discretionary grounds for possession

The court may order possession on these grounds if it is reasonable.

### Secure tenancies

Grounds 1-8 - the court must be satisfied that it is reasonable to make the possession order.

Grounds 12-16 - the court must be satisfied that it is reasonable to make the possession order *and* that suitable alternative accommodation will be available.

Ground 1	Rent arrears or breach of obligation
Ground 2	Nuisance and behaviour
Ground 2A	Domestic violence
Ground 2ZA	Riot offences
Ground 3	Condition of premises
Ground 4	Condition of furniture
Ground 5	Misrepresentation by tenant
Ground 6	Improper assignment
Ground 7	Conduct in employment related tenancy
Ground 8	Temporary accommodation due to works
Ground 12	Employment
Ground 13	Property adapted for disabled
Ground 14	Accommodation for special groups
Ground 15	Accommodation for special needs
Ground 16	Succession (size of premises)

### Assured tenancies and assured shorthold tenancies

Grounds 9-17 - the court may order possession if it is reasonable.

Grounds 9 and 16 are not available to end fixed term assured shorthold tenancies.

Ground 9 (suitable alternative)	Suitable alternative accommodation is available for the tenant or will be when possession order takes effect.
Ground 10 (some rent arrears)	Tenant was in rent arrears on the date possession proceedings began and (unless the requirement for a notice is waived by the court) on the date the Notice Seeking Possession was served.
Ground 11 (persistent delay in paying rent)	Tenant has persistently delayed paying rent, whether or not there are any arrears owing on the date on which proceedings for possession are begun.
Ground 12 (breach of tenancy)	Any tenancy obligation (other than rent matters) has been broken or not performed.
Ground 13 (damage to property)	Condition of the dwelling or common parts has deteriorated owing to acts of waste, neglect or default by the tenant or anyone living with him/her and where a lodger or sub-tenant is responsible for the deterioration the tenant has not taken reasonable steps to remove that person.
Ground 14 (anti-social behaviour/criminal conduct)	Tenant/person residing or visiting: <ol style="list-style-type: none"> <li>1. guilty of conduct causing/likely to cause a nuisance, annoyance or otherwise act unlawfully in vicinity.</li> <li>2. guilty of conduct causing or likely to cause a nuisance or annoyance to the landlord, or a person employed (whether or not by the landlord) in connection with the exercise of the landlord's housing management functions.</li> <li>3. convicted of using the dwelling or allowing it to be used for immoral or illegal purposes, or of an indictable offence</li> </ol>

	committed in or in the locality of the dwelling house
Ground 14A (Domestic violence)	Dwelling was occupied by couple and 1. one or both is a tenant of the dwelling. 2. one partner has left because of violence or threats of violence towards a partner or family member. 3. court is satisfied the partner who has left is unlikely to return
Ground 14A (Domestic violence) (cont.)	
Ground 14ZA (Riot offences)	Tenant/adult residing has been convicted of an indictable offence during a riot in the UK.
Ground 15 (deterioration of furniture)	Condition of furniture provided by the landlord has deteriorated owing to ill treatment.
Ground 16 (premises let to employees)	Dwelling was let as a service tenancy and the tenant is no longer in that employment.
Ground 17 (fraud)	Landlord granted a tenancy as a result of a false statement made knowingly by the tenant.

### Document control

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### Version Control

Date	Amendment	Version
03 December 2019	New NHG policy	1.0
01 March 2022	Amendments to section 4.0 and 5.0	1.1
August 2024	Removal of the use of probationary tenancies. Inclusion of sections on joint tenancies, sole tenancies, assignment, and tenancy sustainment.	2.0